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The NY SAFE Act: County Clerks and County-State Relations

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RELATIONS

The NY SAFE Act: County Clerks and County-State Relations

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In partial fulfillment of requirements for PAD 690 Master's Project

SUNY Buffalo State

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Abstract

The NY SAFE Act is a controversial gun control law in New York State. Since its passage on January 15, 2013, it has been the source of a continuing controversy. The primary purpose of this study is to explore the reactions of New York State (elected) county clerks tasked with the law's implementation. In this phenomenological study, semi-structured interviews were conducted with 11 county clerks across New York State. The researcher asked various questions about how the SAFE Act has affected their offices. The researcher used thematic analysis to organize themes, which reveal that a lack of or inadequate intergovernmental communication and the absence of any requests for input from the county clerks before the *SAFE Act* was passed has resulted in dissatisfaction among the clerks. Additionally, the *SAFE Act* has resulted in significant increase in administrative workload, and prompted a generally negative reaction from the county clerk's constituencies. The researcher concludes with several administrative recommendations based on the study's findings.

Acknowledgements

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I would like to thank the late Dr. Keith Henderson, my first advisor, for being an inseparable part of my experience of the public administration program. I hope this is a project he would be proud of, and I dedicate it to his memory.

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Chapter 1 Introduction

Introduction

The *New York SAFE* (Secure Ammunition and Firearms Enforcement) *Act* is a controversial gun control law in New York State. Since its passage on January 15, 2013, it has resulted in protests and a rallying cry for conservative politicians who see the law as an attack on Second Amendment rights (Kaplan, 2013). Introduced by Governor Andrew Cuomo (D), and sponsored by Senator Jeffrey Klein (D) and co-sponsored by Senator Malcolm Smith (D) in response to the Sandy Hook Elementary School shooting, the *SAFE Act* passed the State Senate with a 43-18 vote (Senate).

A day after the Senate vote the *SAFE Act* was overwhelmingly passed through the State Assembly as well. Gov. Cuomo promptly signed the Bill into law, promoting it as the toughest gun control law in the country (Kaplan, 2013). The *SAFE Act* was passed through the Legislature using a “message of necessity” which waives a three-day waiting period required by the state constitution before legislation can be voted on. By using a message of necessity, if the governor has enough votes to ensure the legislation will pass, it can be passed without hearings or public comments. The constitution states that:

No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the governor, or the acting governor, shall have certified, under his or her hand and the seal of the state, the facts which in his or her opinion necessitate an immediate vote thereon. (Breidenbach, 2013)

The governor believed that the passage of the *SAFE Act* constituted an emergency by stating:

Some weapons are so dangerous, and some ammunition devices are so lethal, that New York State must act without delay to prohibit their continued sale and possession in the

state in order to protect its children, first responders and citizens as soon as possible. This bill, if enacted, would do so by immediately banning the ownership, purchase and sale of assault weapons and large-capacity ammunition feeding devices. For this reason, in addition to enacting a comprehensive package of measures that further protects the public, immediate action by the Legislature is imperative. (Breidenbach, 2013)

The message of necessity remains a controversial element of the state constitution, with opponents of its use, such as the New York Public Interest Research Group, arguing that it is abused and should exist only for true emergencies (Breidenbach, 2013).

The *SAFE Act* did a number of things, including the expansion of the classification of an assault weapon to semi-automatic rifles, pistols, and shotguns. If any of these weapons had one military characteristic, like flash suppressors and bayonet mounts, they were classified as such by the law ("SAFE Act FAQ,").

Attempts to challenge the constitutionality and strike down the assault weapon provision in court failed in both 2013 and 2015 (Precious, 2015). The size of magazines (bullet chamber) was also affected by the *SAFE Act*, only permitting the sale of magazines with a seven-bullet limit ("SAFE Act FAQ,"). This provision was subsequently struck down by Chief U.S. District Judge William M. Skretny, who stated the limit was “tenuous, strained and unsupported,” and later upheld by the U.S Court of Appeals for the Second Circuit (Fairbanks, 2013).

After the magazine limit was nullified, the limit was returned to its previous restriction of 10 bullets. Another provision of the *SAFE Act* affected ammunition dealers who were now banned from selling their ammunition online (Kaplan, 2015). Gov. Cuomo suspended this provision in 2015 until database problems concerning online ammunition sales could be resolved (Weaver, 2015).

The *SAFE Act* also includes a new requirement for mental health officials who believe their patient is going to harm themselves or others to report that information to county officials,

who will then see if that individual has a firearm permit. If so, that permit is revoked and authorities will confiscate any firearms that person possesses. Also, lost or stolen firearms must be reported to police immediately, as the failure to do so after 24 hours can result in a criminal misdemeanor charge (Association).

Another misdemeanor charge could result if someone who has committed a felony or has been convicted of domestic abuse fails to properly store their firearm using all safety measures available. In addition to mental health professionals, both firearm and ammunition dealers are now required to perform background checks ("SAFE Act FAQ,").

Numerous other aspects of the *SAFE Act* include amending the New York Penal Law to deliver harsher penalties for those who use illegal firearms in acts of violence, requiring the recertification of firearms at the county clerk's office every five years, and safeguarding the personal information of pistol permit holders from Freedom of Information Laws ("SAFE Act FAQ,").

The magazine limit imposed by the *SAFE Act* has been revisited and altered various times. While the original provision called for a limit of seven round magazines only, it was brought to Gov. Cuomo's attention that limiting magazines to seven rounds effectively outlawed the purchase of handguns, since their magazine size is 10 rounds (Alaimo, 2013). Gov. Cuomo stated that he was aware of this and meant that while handguns with a 10 round magazine could be purchased, only seven rounds could be loaded into it at a time (Virtanen, 2013).

This specific provision of the *SAFE Act* received particular criticism from the law enforcement community. Gov. Cuomo subsequently altered the *SAFE Act* to make law enforcement exempt from this provision, stating, "Police officers possessing ammunition clip with more than seven bullets are not in violation of this law and they never will be, period"

(Berger, 2013). Law enforcement officials, both active and retired, are also exempt from other aspects of the *SAFE Act* (Weaver, 2013).

As evidence of the continuing controversy over the *SAFE Act*, U.S. Congressman Chris Collins (R) has proposed a law called the *Second Amendment Guarantee Act*, or *SAGA*, which effectively overturns the *SAFE Act* and prevents any other state or local government from passing gun control legislation of any kind thereafter. Essentially, the only gun control laws that would exist in the U.S. would be current federal laws. In an article in *The Buffalo News*, Collins stated:

This legislation would protect the Second Amendment rights of New Yorkers that were unjustly taken away by Andrew Cuomo. I am a staunch supporter of the Second Amendment and have fought against all efforts to condemn these rights. I stand with the law-abiding citizens of this state that have been outraged by the *SAFE Act* and voice my commitment to roll back these regulations. (Zremski, 2017a)

Rep. Collins claims *SAGA* was born out of the concerns of his district's constituents. In another statement to *The Buffalo News* Collins stated, "Andrew Cuomo's *SAFE Act* stripped New Yorkers of their Second Amendment rights. *SAGA* will give those rights back to New York residents and guarantee no one will take them away again" (Zremski, 2017a).

After the Las Vegas mass shooting on October 1, 2017, Congress effectively put *SAGA*'s future in uncertain territory. A bill that would have made it easier to transport firearms from state to state and ease restrictions on certain types of ammunition and physical features was put on hold by the House, with Speaker of the House Paul Ryan (R) telling reporters in a *Buffalo News* article, "That bill is not scheduled now; I don't know when it's going to be scheduled." (Zremski, 2017b).

Various newspaper op-eds continue to comment on the *SAFE Act*'s ongoing controversy. *The Buffalo News* writer Rod Watson states:

From the silly attempt to limit magazine size to seven rounds (firearms manufacturers laughed!) to the so-called “assault weapons” ban that is actually just a cosmetic features ban, the law was always designed more for PR than anything else. Like those commercials of yore encouraging kids to “Be the first on your block to ...”, Gov. Andrew Cuomo wanted bragging rights for having the nation’s toughest gun control measure, as if banning bayonet mounts and thumbholes in the stock will stop crime (Watson, 2017).

Watson also comments on *SAGA* by writing, “That’s why a federal response makes sense. States are limited in what they can do, and New York already was doing all it reasonably could before piling on with the SAFE Act” (Watson, 2017).

A pro-*SAFE Act* op-ed in *The Buffalo News* charges the National Rifle Association (NRA) with being an arm of the gun manufacturer apparatus, fighting the *SAFE Act* not on ideological grounds but to help the sales of non-traditional firearms that continue to generate profit for the gun industry. The writers of the op-ed consider the *SAFE Act* to be the second iteration of the *National Firearms Act of 1934*, enacted during Prohibition, which the writers contend saved lives during the waves of organized crime that beleaguered that era (Grabiner, 2014).

In an op-ed by the Sun Community News Editorial Board (2017), the authors argue that if the *SAFE Act* is repealed, it should be followed by efforts by the federal government to address what continues to be a high rate of gun violence in the U.S. An additional op-ed in the *Poughkeepsie Journal* defends the *SAFE Act*, citing a Siena College poll that found the law is supported by 60% of registered voters in New York State (Dubroff, 2017).

The *SAFE Act* is an example of a problem of intergovernmental relations. An example of this kind of problem happening previously was then-Governor Eliot Spitzer (D) issuing an order allowing undocumented immigrants to obtain a New York State driver’s license. Then-Erie County Clerk Kathy Hochul (D) was opposed to Spitzer’s directive and refused to comply.

Hochul was not the only county clerk to oppose the governor's decision. In 2007, a meeting was called by the New York State Association of County Clerks to discuss the issue of Gov. Spitzer's proposed policy. At the time 23 county clerks across the state were up for re-election. This policy, deeply unpopular with the public, gave the county clerks a high profile issue to run on that resulted in substantial media coverage for the candidates.

A majority of the clerks at the meeting expressed their opposition to Gov. Spitzer's plan, and vowed to refuse to implement the policy if it did in fact become law (N. Confessore, & Vitello, P., 2007). All of the county clerks at the meeting that voted against Gov. Spitzer's order were Republicans, with Kathy Hochul being the sole Democrat (N. Confessore, 2007).

Frank Merola (R), a county clerk from Rensselaer County, refused to implement the plan. Merola stated to *The New York Times*, "I'm not going to process a driver's license for someone who cannot prove they are here legally" (D. Hakim, & Rivera, R., 2007). Additionally, Cheryl Dinolfo (R), a county clerk from Monroe County, said "I do believe that the state D.M.V. is asking my office to help illegal immigrants break the law, and this policy is one that cannot stand" (D. Hakim, & Rivera, R., 2007).

John Woodward (D), a county clerk from Schenectady County, however, seemed passive on the issue and stated, "I'm going to follow the law. I don't think we have much choice; we serve as agents of the Commissioner of Motor Vehicles" (D. Hakim, & Rivera, R., 2007). Additionally, Woodward felt that the issue was partisan in nature, noting that the vast majority of dissents amongst the clerks were Republican (N. Confessore, 2007).

Senator Kathleen Marchione (R) unequivocally rejected Gov. Spitzer's order when she was president of the New York State Association of County Clerks. In a statement to *The New York Times*, Sen. Marchione said, "driving without a license should not give you a right to have a

driver's license when you are already breaking the law in two instances" (Robbins, 2017). Before Gov. Spitzer's order was rescinded, several county legislatures passed resolutions expressing their discontent with the plan and instructed their county clerks not to implement it (N. Confessore, & Vitello, P., 2007).

In addition, Assembly Republican Minority Leader James Tedisco (R) proposed drafting a bill called the *County Clerks Protection Act*. As the governor's office was threatening the county clerks with lawsuits if they failed to administer Gov. Spitzer's proposed policy, this Act would have prevented taxpayers from having to pay the legal fees of the county clerks if lawsuits were filed. Asm. Tedisco said in a press release:

First, Governor Spitzer crafts his plan with zero public or legislative input. Next, he refuses to release many of the program details. Now, we hear rumblings that he may bring legal action against County Clerks. Where does it all end? Will the Governor's next step be the attempted removal of those Clerks who refuse to break the law, as his proposal would have them do? (Assembly)

Gov. Spitzer's order was eventually withdrawn after heavy opposition from both elected officials and the public. In a poll by Siena College, 72% of New York residents were against Gov. Spitzer's plan (D. Hakim, 2007).

The problems and controversies surrounding the *SAFE Act* are a microcosm for disagreements not uncommon in federal systems, both between states and their municipalities and with federal, state, and local authorities, the latter illustrated by "sanctuary cities". These municipalities are refusing to enforce federal immigration laws, in particular the tougher stance on illegal immigration enforcement emanating from the Trump Administration's Justice Department and Department of Homeland Security.

The researcher was employed in the Records Department of the Erie County Clerk's Office when

the *SAFE Act* was first implemented on January 15, 2013. While there were normally two or three people registering their firearms in the pistol permit department at any point in time, lines were now out the door. Additionally, protests outside of Erie County Hall from conservative and pro-Second Amendment citizens sent a clear message to Gov. Cuomo that they felt this was an attack on their constitutional rights.

Due to the greatly increased workload in the pistol permit department, overtime and weekend hours needed to be used for several months (with budgetary implications for counties). Years since the *SAFE Act*'s passage, one can still see signs advocating "Repeal the SAFE Act" scattered across New York State, including in Erie County (see Figure 1).

Figure 1 Repeal the SAFE Act Sign



Statement of Problem and Purpose of Study

The primary purpose of this study is to explore the reactions of New York State (elected) county

clerks when they must implement policy in which they effectively had no voice, but which may be controversial among their constituency.

This problem exists in a unitary relationship between state and county in New York State, while power is shared in the federal-state relationship. Constitutionally, laws are dictated by the capital, Albany, and individual counties, “handmaidens” of the state, must enact and enforce these laws. However, this unitary relationship, the basis of state-local relations through the U.S., becomes problematic when the elected local government officials are tasked with implementing controversial state laws.

County clerks are elected (and thus, politicians who must answer to the electorate), but their tasks are decidedly “administrative”. This makes the county clerk a particularly interesting subject in public administration. This is a situation quite unique to the U.S. So, for example, in most democracies, government officials carrying out duties analogous to the New York State county clerk are appointed and only have to answer to their superiors in the nation’s capital.

Significance of Study

This study is particularly relevant to the study of public administration because it examines the Janus-faced role of what is a decidedly administrative position in other advanced democracies (the New York State county clerk) with the political nature of its appointment (by the people through regular elections, not by the governor). Thus, a county clerk is both a public administrator and an elected official. With the exception of New York City, county clerks are elected positions, not appointed. Primarily responsible for mundane tasks like record keeping, clerks sometimes have to implement controversial laws. How does one reconcile those two?

In many respects, the county clerk’s experience is representative of the difficult balance New York State counties (as handmaidens of the state) must maintain in meeting the demands of

the local electorate and those of statewide elected officials (namely, the governor, who can claim to represent the entire state and its needs, rather than parochial interests). This study is an opportunity to research an especially controversial law, passed in 2013, by interviewing county clerks throughout New York State.

The researcher has inquired: What was it like for them? How did the *SAFE Act* affect their offices administratively? What, if anything, do county clerks feel should have been done differently? What can we learn from this? Finally, this study is important to the field of public administration because it adds to the knowledge of intergovernmental relations and the problems that can naturally arise in unitary systems (that is, state-local relations in the U.S.) with diverse political cultures. Naturally, this goes to the heart of the “upstate-downstate” divide in New York State local-state relations, a pattern that is replicated in many states through the Union.

Chapter 2 Review of Related Literature

The Two Party System in New York

A two party system currently exists in New York State, with the Democrat and Republican parties serving as “tents” for various other parties and viewpoints. In addition, there are minor parties in New York State such as the Conservative Party and Working Families Party. While rarely sending candidates of their parties to Albany, they have power in endorsing candidates of the two main parties. This can be a significant factor in statewide elections, evidenced by the Conservative Party’s endorsement of George Pataki in 1994 that provided him with 328,605 votes, which was enough to push him over the edge to victory over Mario Cuomo (Pecorella, 2012).

The intense divide between the Democratic and Republican parties directly contributes to the controversy engendered by the *SAFE Act*. While Democrats often advocate for gun regulation and gun control, Republicans tend to take a more literal view of the Second Amendment as sacred and strongly oppose limits on gun ownership by private individuals and consider them an attack on their constitutional rights. This is strongly correlated and interconnected with the public’s political views on guns, as statistics from the Pew Research Center below will demonstrate.

On the platform of the New York State Democratic Committee, gun laws are touted as the strongest in the nation and that “this critical legislation is reducing gun violence and making New York a safer place to live” (“Facts | New York State Democratic Committee,”). The platform claims that after the Sandy Hook Elementary school shooting, the event that prompted the creation of the *SAFE Act*, “Republicans in Washington buckled to the gun lobby and blocked sensible gun safety laws that would keep guns out of the hands of criminals and the mentally ill.

("Facts | New York State Democratic Committee,")”

The New York State Republican Party’s official stance on the 2nd Amendment is “we uphold the right of individuals to keep and bear arms, a natural inalienable right that predates the Constitution and is secured by the Second Amendment”. The platform expresses satisfaction in Neil Gorsuch’s nomination to the U.S. Supreme Court, a move widely praised by Republicans. Additionally, the platform states support of constitutional carry, while condemning laws that restrict magazine sizes, ban the sales of certain rifles, and lawsuits that target the firearm industry ("A Rebirth of Constitutional Government | GOP,").

The NRA, in addition to having a powerful lobby, directly funds political campaigns of candidates that have a pro-Second Amendment and gun rights stance (Bruce, 1998). The NRA will endorse candidates regardless of political party as long as their views on gun rights align with those of the organization. While maintaining a nonpartisan position, due to the a higher percentage of Republicans that favor gun rights than Democrats, around 75% of NRA endorsements are for Republican candidates (Bradford, 2012).

This percentage of endorsements along party lines is reflected in statistics of the political views of gun owners among the public. Data from Pew Research Center shows that 61% of gun owners are Republican or lean Republican. The percentages among NRA members is even more stark, with 77% of gun owners who belong to the NRA are Republican or lean Republican, and only 20% belonging to the Democrat party or lean Democrat (Parker, 2017).

Another significant organization directly involved in efforts to repeal the SAFE Act is SCOPE (Shooters Committee on Political Education). A New York State-based organization, their platform includes supporting political candidates with a pro-2nd Amendment stance, promoting legislation that favors gun rights, and educating their membership on gun legislation

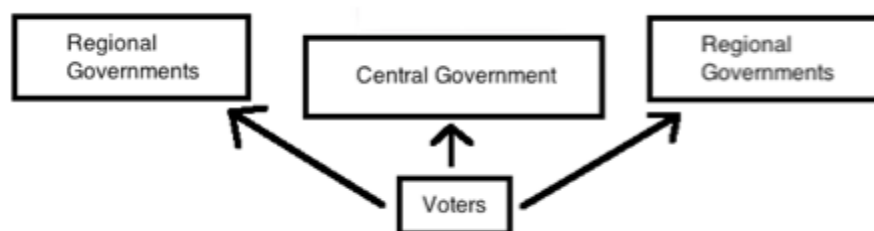
and where elected officials stand on the 2nd Amendment ("About - S.C.O.P.E.,").

Following the shooting at Sandy Hook and the immediate passage of the *SAFE Act*, the NRA's membership in New York State grew from 22,000 members to 41,000, and the organization focused its efforts for its partial and eventual total repeal (Precious, 2014). Their efforts continue and claim some successes, for example in helping defeat gun control bills Senate Bill 2050 and 2491 during the 2015 legislative session, which would have banned .50 Caliber rifles and mandated how firearms are stored in a person's home, respectively ("New York: Fight Continues Against SAFE Act and Dozens of Other Anti-Gun Bills,").

Organizing Territory

Federalism is a system where the central (federal) government and administrative areas, like states, share power (see Figure 2). In the U.S., this means that states have independence from the federal government in many significant ways, allowing them to make their own policy and pass laws. The researcher will discuss further how the size and scope of the federal government has increased dramatically over the course of U.S. history (Smith, 2010).

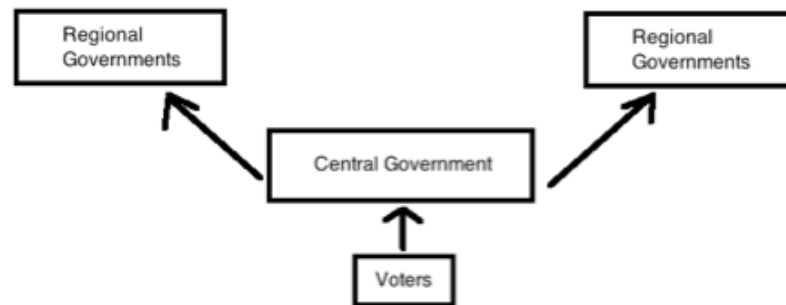
Figure 2 Federal System Representation



Unitary systems have a strong central government that holds all the power, directing subordinate regional areas in all matters of policy (see Figure 3). The United Kingdom is an example of a unitary government system, with all power resting in Parliament. In the U.S., while the relationship between Washington and each state is federal, the relationship between state and

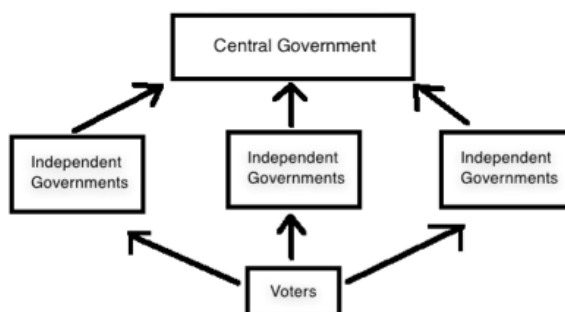
county is unitary (Smith, 2011).

Figure 3 Unitary System Representation



A **confederacy** is a collective of independent states who voluntarily agree to form a nation. Each state is independent and gives the central government its power (see Figure 4). Confederacy has been tried twice in American history. The Articles of Confederation governed the U.S. throughout the Revolutionary War and through the early years of the republic. The U.S. Constitution replaced them in 1789. This changed the government from a confederacy to a federal system. The second instance, the Confederate States of America, lasted from 1861 to 1865 (Smith, 2011).

Figure 4 Confederal System Representation



History of Federalism

The Federalist Papers, a collection of essays published in numerous newspapers after the Revolutionary War, argued for an empowered government to replace the Articles of Confederation. Penned by Alexander Hamilton, James Madison, and John Jay under the pseudonym Publius, the essays urged the people of N.Y. to elect pro-Constitutional representatives to the NYS Constitutional Convention. *The Federalist Papers* highlighted the weaknesses of the confederacy while stressing the necessity of a strong government under a new constitution (Hamilton).

In *Federalist Paper No. 1*, Hamilton discusses how a capable government is necessary to preserve the Union and sets out to explain why ratification is vital. Arguments are presented that a federal system could preserve liberty while still keeping the Union strong. The Federalists maintained it is imperative that while an empowered government is created, liberty and property must be protected and Republican principles of government must be adhered to (Hamilton).

In *Federalist Paper No. 15*, Hamilton continues to outline the inadequacies of the Articles of Confederation, addressing that the states have become chaotic and while the government can pass laws there lacks an ability to compel the states to implement them. The autonomy of the states under the confederation has resulted in a loose collective of sovereigns that has produced a variety of problems (Hamilton).

As mentioned above, problems like the inability to ensure laws were followed rendered the government effectively powerless. Only a strong Union could preserve the country long term. While those who benefitted from the current system would undoubtedly oppose ratification, it was seen as absolutely necessary as the current state of the country was doomed to fail (Hamilton).

Federalist Paper No. 45 is significant because Madison contends that while there are serious concerns about a strong central government, an interdependent relationship between the government and states could still protect liberty. In addition, it could provide the country with a government that could effectively tax, trade and negotiate with foreign countries, and have a united army to protect against larger European forces at the time (Hamilton).

Eventually, the Federalist's campaign succeeded and the U.S. Constitution replaced the Articles of Confederation. The new federal system divided powers between the government and the states. Concerns persisted about a strong central government with too much power; after all, that was a system from which Americans had rebelled.

As a check on the power of this new strong central government, the national government was split into three branches — Executive, Judicial, and Legislative — giving the branches the ability to check and balance each other (Smith, 2011). Another major device to diminish the power of the new national government is federalism — that is, independent power of the states.

Different Interpretations of Federalism

There have been various interpretations of federalism since the drafting of the Constitution. The U.S. government initially operated under the framework of dual federalism, which is characterized by strict policy competencies belonging to the national and state governments. During this time, there were fierce debates about state's rights, mainly with Democratic-Republicans (represented by Thomas Jefferson) favoring state's rights and the Federalist Party (represented by Alexander Hamilton) favoring a strong national government (Smith, 2011).

Dual federalism is sometimes explained through the concept of the “layer cake”, with a clear separation between the federal and state governments. In 1933 “layer cake federalism” shifted into “marble cake federalism” (or cooperative federalism), where states and the federal

government worked together in ways they did not previously. This was seen as a watershed moment in the federal system, with more power going to Washington ever since (Smith, 2011).

In 1964, President Lyndon Johnson's (D) ambitious policy proposals such as the War on Poverty and the *Civil Rights Act* required more "centralized federalism", where the federal government (particularly Congress) had increased power to implement these policies by specifying categorical grants (including "formula" grants) with little leeway by the states in interpreting and administering these programs.

Head Start and Medicaid are examples of categorical grants, President Richard Nixon (R) sought to change this approach with "New Federalism", which was continued under President Carter and gained traction in the 1980s, during the two administrations of President Ronald Reagan (R). With "New Federalism" Congress increasingly allocated federal funds to states and localities through block grants instead of categorical grants, with the Community Development Block Grant and Temporary Assistance to Needy Families (TANF) as major examples of block grants (where in the past funding for community development and temporary assistance were categorical federal grants to states and localities, meaning many more federal strings were attached, reducing the ability of states to find local solutions to community development and public assistance).

By replacing categorical with block grants, Washington sought to give states more freedom to develop programs to solve problems particular to the region. The block grant fit, as part of Republican views on limited government (but also former governors and Southern centrist Democrats Jimmy Carter (D) and Bill Clinton (D) –the idea that local and state governments are in a better position than the national government to develop programs to solve local problems (rather than the one-size-fits-all of categorical grants) (Smith, 2011).

President George W. Bush (R) took what was called an “ad hoc” approach to federalism. According to this perspective, the federal government may or may not give discretion towards the state depending on the situation being presented. This allowed an amount of flexibility with federalism, while he was criticized by conservatives for creating programs like No Child Left Behind, which expanded federal government oversight into the state’s educational systems (Smith, 2011).

In conclusion, federalism is the foundation of the American political system, but there are different ways to approach federalism, with these perspectives changing throughout U.S. history.

Unfunded Mandates

When the federal government commands state or local governments to implement a new procedure, regulation, or statute, but does not provide additional funding, it is considered an unfunded mandate. This definition also applies to when state governments require local governments to administer new procedures (Lovell, 1979). The *SAFE Act* is an example of an unfunded mandate, as no state funds were given to county clerk’s offices to facilitate its implementation.

Unfunded mandates are a controversial issue in both the federal-state level and state-local relations. President Lyndon B. Johnson’s signature policies like the War on Poverty dramatically increased the federal government’s involvement in state and local government. This was achieved through grant money, which at the time comprised over 25% of state and local budgets (Salamon, 1989).

President Reagan sought to reduce the amount of unfunded mandates during the 1980s with Executive Order 12291, which required cost-benefit analyses and Office of Management and Budget (OMB) approval for all federal mandates. While this was consistent with Reagan’s

political philosophy of giving power back to the states, mandates continued in increased numbers. The number of mandates in the 1980s exceeded those in the 1970s (Relations, 1993).

The dramatic increase of mandates during the 1980s and 1990s led to intense state and local protests (Gullo, 1998). Congress eventually passed the *Unfunded Mandate Reform Act* in 1995 (Administration, 2017). A summary contained in the bill reads as follows:

An Act: To curb the practice of imposing unfunded Federal mandates on States and local governments; [...] and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes. (104-4, 1995)

Unfunded mandates continue to be a source of controversy in intergovernmental relations, with Medicaid being a prominent and current example. As states are responsible for covering half the costs of Medicaid, the federal government can force the states to increase their monetary contributions. In New York State, Medicaid and a possible new national healthcare bill have become a controversial issue, in particular due to the upstate/downstate division (McKinley, 2017).

For example, in a previous iteration of President Trump's healthcare bill, Rep. Chris Collins (representing parts of Erie County and rural counties in Upstate New York) was successful in adding an amendment that pushes the Medicaid responsibility solely on the state. This prompted a sharp rebuke from Gov. Cuomo, who rejected the idea that Medicaid should be paid entirely with the state budget. Conservatives claim this eases the economic burden on NYS counties, which pay for 13% of the Medicaid program – mainly from property taxes (McKinley, 2017).

According to Pecorella (2012), “more than 70% of all the state's households on public assistance and 66% of all Medicaid cases reside in NYC, and more than 66% of all state funds allocated for these two programs are spent in the city”. This has resulted in the long-held view by

Republicans that New York City is a “sinkhole” for public funds. Medicaid is currently expected to cost the counties over \$8 billion next fiscal year. Opponents of the Medicaid commitment claim this continues to be a drain on local economies, resulting in high property taxes, which causes businesses and residents to leave the area (McKinley, 2017).

Erie County also has a large number of residents on Medicaid – 29% in 2015. This number is increasing at a rate of 4% every year. The *Affordable Care Act*, known colloquially as Obamacare, raised the income level required to qualify for Medicaid, which had a significant effect on Medicaid’s growth. 12% of Medicaid users in Erie County are immigrants, tying in to earlier references that Republicans claim the self described “city of immigrants” New York City consumes too much of the Medicaid budget (Mroziak, 2016).

The NY State Governor

New York State always had longer terms for governors than other states, dating back to the American Revolution. While other states had one-year terms with the governor being selected by the Legislature, New York had three, and a governor could run and win an unlimited amount of times through a popular vote. After the Jacksonian democracy movement, the governor’s strength in New York was weakened, with terms drawn back to two years (Colby, 1989).

In 1915 the Progressive reform movement sought to bring the scope and power of the gubernatorial position back to its former glory. While an attempt to push these reforms through at once failed, they were subsequently passed through piece by piece throughout the years. Eventually the four-year term re-emerged. According to Colby, “contemporary comparative analysis of tenure, appointive, veto and budget powers shows it to be one of the strongest in the nation” (Colby, 1989).

The amount of power in Albany can make counties feel restricted, with the governor

possessing strong formal and institutional powers. Compared to other states, studies show that Albany requires counties to implement more mandates. The governor has an incredible degree of influence over the NYS Legislature and can use the “bully pulpit” and compromise to push desired legislation through (Ward, 2006).

Examples of this include in 1969 when Governor Rockefeller (R) pushed an unpopular tax increase through the Legislature in order to balance his proposed budget. Similarly, Governor Pataki’s (R) plan in 1998 to create charter schools was moved through the statehouse despite opposition from numerous members of the Legislature as well as the teacher’s union (Ward, 2006).

Upstate-Downstate Conflict

Understanding the upstate-downstate conflict is also important when studying the *SAFE Act* in an intergovernmental context. There has always been a great divide between liberal New York City and conservative upstate NY. New York City has always dominated NYS; by 1910 it comprised more than half of the state’s population, reaching its apex in 1940 at 55% (Pecorella, 2012).

The opening of the Erie Canal in 1825 had a dramatic effect on the history of the state and the upstate/downstate divide. The Erie Canal’s impact on the development of New York City is incredibly significant and allowed it to become a commercial and industrial powerhouse. Upstate cities like Buffalo and Rochester also benefitted from the Erie Canal, although its residents were still culturally different than the more liberal residents of New York City (Pecorella, 2012).

The decline of the manufacturing sector had a devastating impact on the cities of Buffalo and Rochester, while New York City successfully transitioned from an industrial power to a

financial power. The decline of the upstate cities, combined with the mostly rural and traditional residents that comprised the rest of upstate New York, further highlighted the stark contrast between the two areas of the state (Pecorella, 2012).

There was also a cultural and political divide, due to New York City being comprised largely of immigrants who voted Democrat, with residents who were more “cosmopolitan”, and upstate New York being populated from the descendants of “Yankees” who had emigrated from New England and were more conservative, Republican and had more traditional, Protestant values (Pecorella, 2012).

Racial differences also contribute to the divide. New York City experienced dramatic demographic changes during the 2nd half of the 20th century due to a myriad of factors – the *Immigration Act of 1965*, and African-Americans moving north in search of work and a more tolerant environment, resulted in the white population becoming a minority in New York City (Pecorella, 2012).

The mass exodus of whites from the cities to suburban areas was a major factor in this demographic change, and has resulted in a tripartite dichotomy (city, rural, suburban) that defines New York State politics today. While the Democratic bases are typically found in downstate, urban areas, the Republicans are strong in upstate, rural, and suburban areas (Pecorella, 2012).

In an effort to limit the influence of liberal New York City, Republicans succeeded in enacting dramatic changes to limit New York City’s influence in Upstate New York. The 1894 State Constitution succeeded in limiting New York City’s representational abilities in the state legislature (Pecorella, 2012). Along with solidifying the number of districts in New York City, the Republicans also made sure that upstate New York had districts and representation in the

NYS Legislature regardless of their population (Colby, 1989).

The second change took place in 1896, with Republicans consolidating New York City with surrounding, more conservative areas in an attempt to allow Republicans to act as watchdog of sorts on the city's expenditures while additionally attempting to move Republicans into positions of power in the City through the patronage system. This change remained until it was eventually removed in response to Supreme Court decisions from the Warren Court (Colby, 1989).

Summary

This literature review examines the context of this research by first discussing the two party system in New York State. The researcher found that hyperpartisanship is contributory, along with the longstanding cultural and political upstate/downstate divide, to the *SAFE Act's* controversial nature. Organizations such as the NRA and SCOPE have been fierce opponents of the *SAFE Act* and have launched various efforts over the years to impair and eventually overturn the law.

In order to give the reader a historical background that ultimately resulted in the current state-local relationship, federalism was also discussed. Today, while states have autonomy from Washington, counties are still creatures of the state. The NYS governor has been a traditionally powerful position compared to governors in other states, and the state executive's considerable influence in Albany, combined with the message of necessity aspect of the state constitution, resulted in the *SAFE Act's* swift passage through the Legislature. Unfunded mandates remain a contentious issue in intergovernmental relations; vexing public administrators as they divert administrative resources to new programs or policies they must implement. These findings will shape the questions the researcher is trying to ask in this study.

Chapter 3 Methodology

Design of Study

Phenomenology was chosen as the research design for this study. According to Creswell (2013) phenomenological research:

Is a design of inquiry coming from philosophy and psychology in which the researcher describes the lived experiences of individuals about a phenomenon as described by participants. This description culminates in the essence of the experiences for several individuals who have all experienced the phenomenon. This design has strong philosophical underpinnings and typically involves conducting interviews.

Phenomenology is both a philosophy and research method with its roots dating back to early 20th century German philosopher Edmund Husserl. As a branch of philosophy, like ontology, epistemology, and aesthetics, it could simply be described as the study of experiences. As a methodology, it allows researchers to study experiences in a way they were not able to do using traditional research methods based on empiricism. (Waugh, 2004).

According to Waugh (2004), “some conscious phenomena are not amenable to empirical science.” In the early 20th century and in particular after World War II, there was a need for more philosophical approaches to research in the social sciences. During the 1960s, phenomenological research had a decidedly political element to it, seen as a reaction to the predominant research methods at the time, in particular “science’s presumed objectivity.” (Waugh, 2004)

This methodology enjoyed popularity during the 1960s and 1970s by American academics and is still used in the field of public administration and other social sciences. According to Waugh (2004), phenomenology “encourages attention to how people relate to bureaucratic organizations and government programs.” As the field of public administration

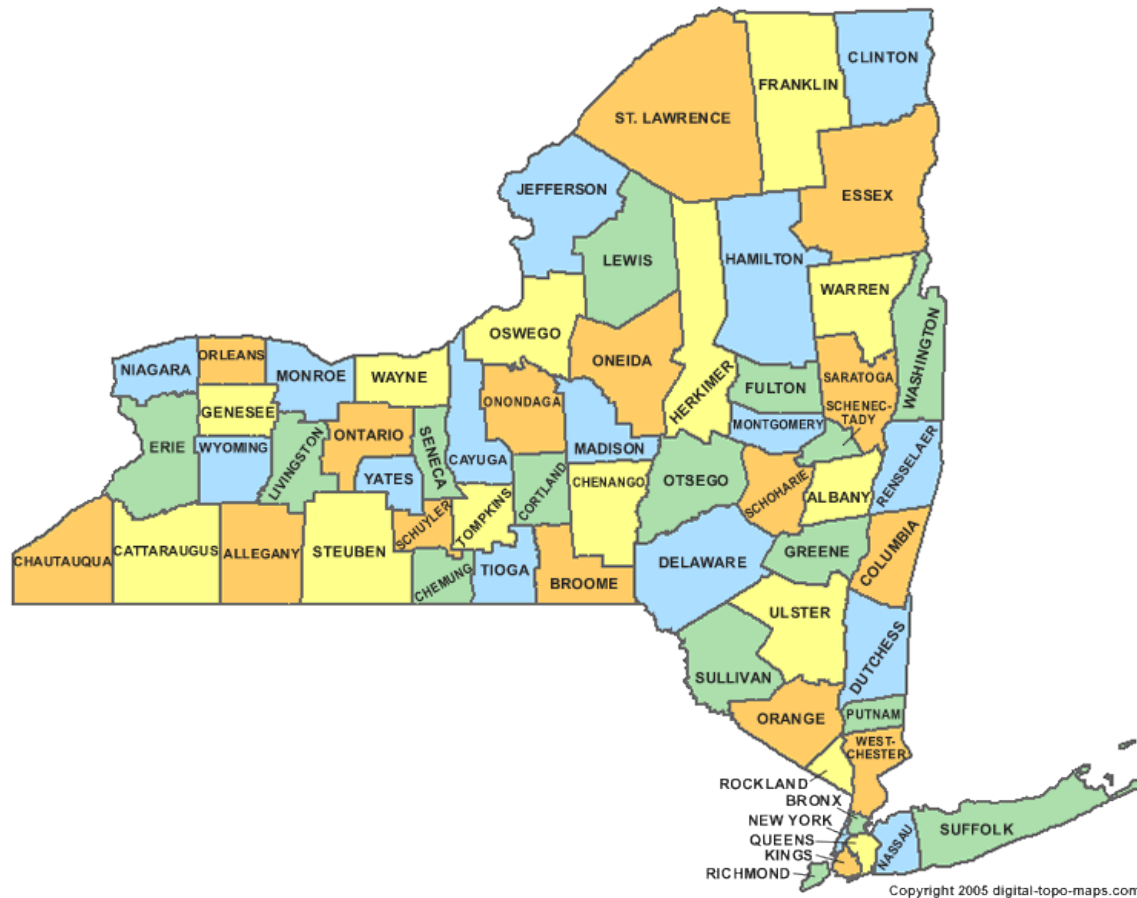
concerns the study of government organizations, phenomenology is an apt methodology to study the experiences and perceptions of the individuals that comprise those groups (Waugh, 2004).

Phenomenology is an appropriate strategy for this study because the researcher will be conducting qualitative semi-structured interviews with individuals (New York State county clerks). The goal of this research is to understand how implementation of the *SAFE Act* has affected the offices of the county clerks by documenting the sharing of their experiences.

Sample Selection

New York State county clerks comprise the participants of this study. Only county clerks that had pistol permit departments in their offices were chosen (in many counties in New York State, pistol permits are handled by the sheriff's department). E-mails were sent out to county clerks with a brief explanation of study along with the interview questions. County clerks who agreed to interview were then asked if a telephone interview could be scheduled. County clerks in the close proximity of the researcher were asked if an in-person interview could be conducted in their offices. Convenience sampling was used with special effort to ensure the researcher had an urban, suburban, and rural mix.

Figure 5 Map of New York State Counties



Data Collection Methods

Once the interview was scheduled with the county clerk, the researcher interviewed the participant over the telephone at the agreed upon time. For the in-person interviews, the researcher conducted the interviews in the office of the county clerk. The interviews lasted around 25 minutes. The goal was to have the county clerks speak for themselves about the *SAFE Act* and its administrative impact on their offices. For data recording procedures, both the in-person interviews and telephone interviews were recorded using the researcher's interview protocol, a tape recorder. The researcher occasionally wrote down quick notes as the interviews were in progress using an observational protocol, a journal. The researcher interviewed 11 New York State county clerks using semi-structured interviews to ensure a rich amount of data was collected.

Data Analysis

Data was then analyzed using thematic analysis, one particular form of qualitative analysis in line with the phenomenological tradition. Once all of the data was collected, the researcher analyzed the data corpus. The audio recordings and written notes from the interviews comprised the data corpus for this study. The researcher transcribed the audio interviews and began writing down initial impressions of the data as he read through the interviews and written notes. Coding was then performed manually across the data set. The researcher carefully read all of the transcriptions numerous times, highlighting interesting and important quotes from the county clerks. Codes were then collated that represented the most significant thoughts or ideas that the clerks had in common. These codes were refined into potential themes, and after a number of potential themes were developed, they were further refined using the “two levels” of reviewing as recommended by Braun and Clarke (2006). Additionally, during this process a thematic map of the analysis was developed. Potential themes were then refined further and named, and once the researcher produced a final list of themes a report was written in the form of the Chapter 4 Discussion. The themes produced by the analysis then form the basis for recommendations in Chapter 5. The participant profiles that follow were written for each county clerk to aid the researcher in the data analysis (Braun & Clarke, 2006).

Participant Profiles

Michael Cianfrini, County Clerk of Genesee County

Mr. Cianfrini mentioned that the *SAFE Act* caused a lot of fear and discontent among his constituency in Genesee County. Genesee County has a large amount of pistol permit holders. A considerable amount of phone calls to his office by pistol permit holders and rallies in Genesee County were examples of the reaction to the *SAFE Act*'s passing. Mr. Cianfrini's pistol permit department worked hard to get through the increase in volume to his pistol permit department,

and some staffing procedures changed. Frustration with the recertification process was described in-depth. Mr. Cianfrini noted how his office was not given any notice before implementation was required of the *SAFE Act* stating, “It was just dropped out of the sky on us”. When asked what should have been done differently, Mr. Cianfrini said a lot of things should have been done differently, including public comments, input from various organizations and government officials like the county clerks. Funding from the state to aid in the *SAFE Act*’s implementation would have been helpful. The *SAFE Act* was passed hastily, and because of this aspects of the law like the recertification process are unclear according to Mr. Cianfrini. He also believes that we can learn something from this, specifically that because this law was a knee-jerk reaction we are now seeing the repercussions in terms of administrative issues for the clerks. As far as the effect a possible constitutional convention could have on the *SAFE Act*, Mr. Cianfrini does not support a constitutional convention and believes it could further erode 2nd amendment rights. When asked what the balance is like between being an elected official and public administrator, Mr. Cianfrini said it’s tough, in particular with the *SAFE Act* because of the concern he has for his constituents. An example he provided is the Opt-Out provision of the *SAFE Act*. He has assured his constituency that he would not comply with FOIL requests by news organizations to attain the names and addresses of pistol permit holders, even if they have not filed out an Opt-Out form. Administrative reasons aid in the justification of this. In summary, the *SAFE Act* has caused a lot of stress, both administratively and in concern for Mr. Cianfrini’s constituents.

Michael Jankowski, County Clerk of Wayne County

Mr. Jankowski explained that the *SAFE Act* had two primary effects – that the law was not clear and caused uncertainty as to what it meant, and that a significant part of his county’s population rushed out to either buy new guns or get a new pistol permit. SCOPE meetings in Wayne County

grew dramatically in size. Mr. Jankowski did not have to implement any new staffing procedures to handle the *SAFE Act*, as his staff was well prepared to get them through the increased traffic to their counter. The clerk then describes how the recertification process has created so many unanswered questions about permit revocations and what agencies are going to be responsible for certain actions the *SAFE Act* requires. Mr. Jankowski explains that his office was given zero notice before implementation was required of the *SAFE Act* and no input was asked for beforehand. When asked what should have been done differently, Mr. Jankowski stated that he is a very strong 2nd Amendment individual, but believes that if those in power felt that this law was necessary, they should have passed it “in the light of day” and had a formal legislative process. The clerk said he is nervous about the idea of a constitutional convention because he believes the results could turn out to be unfavorable for 2nd Amendment rights. Finally, Mr. Jankowski stressed the importance of county clerks being elected positions rather than appointed. Elected officials with their own independent constituency create checks and balances within the system, and elected officials are much more likely to “stand up to their bosses” than appointed officials. This serves the public well, Mr. Jankowski explained, by allowing elected officials to stand up when they perceive an injustice and bring it straight to the public and press, and “drag things into the sunlight”.

Adam Bello, County Clerk of Monroe County

Mr. Bello began the interview by mentioning that the recertification process is going to begin to create a lot of extra work for the clerks this year. Unanswered questions remain about how the revocation process will affect the pistol permit holders of the county. The state police has informed Mr. Bello that his office will be provided with a list of pistol permit holders who did recertify, and then his office is going to have to cross-reference that with his large volume of

pistol permit files, those before 1990 listed in books. This would be an incredible undertaking for his staff and Mr. Bello would have preferred that the state police provide him with a list of who did not recertify which would have resulted in an easier process for his staff. While Mr. Bello could not recall any political protests back in 2013 as a result of the *SAFE Act*'s passing, there are some communities in Monroe County that display "Repeal the SAFE Act" lawn signs and Mr. Bello wonders if the law was tied to the substantial increase of pistol permit applications in the county. Mr. Bello again states that the recertification process is where the clerk's offices are going to be affected the most administratively and that he believes the responsibility of each government agency involved in that process was not worked out ahead of time by the writers of the legislation. Mr. Bello believes that if a constitutional convention were to happen it could affect the *SAFE Act* either way, either by possibly codifying it into state law or eliminating it altogether. Lastly, when asked what the balance is like being an elected official and public administrator, Mr. Bello stated that he believes that elected officials like clerks who have to implement state mandates are judged by how they implement those mandates.

Paul Piperato, County Clerk of Rockland County

Mr. Piperato first discussed how whenever there is a tragic event in this country, like a mass shooting, you will see an increase in pistol permits and people rushing to get a firearm in general. The clerk then said the *SAFE Act* has not impacted his office in a significant way, however, he believes that the recertification process will affect his office in a negative way in the coming year. Mr. Piperato goes into detail describing how the recertification process presents a myriad of unanswered questions in regard to what government agencies are going to be responsible for enforcing certain aspects of the law, and if these agencies have the adequate staff to enforce them. The clerk then stated that he believes two aspects of the law are working - the mental

health check and the cleaning up of the records via the recertification process. Mr. Piperato is in favor of the Opt-Out feature, having released names and addresses to a newspaper before under a FOIL request, subsequently regretting the decision. The clerk said he was not given much time to set up the protocols necessary to implement the *SAFE Act* in his office, but his office accomplished it. There were no political protests or rallies in Rockland County as it's a suburb of New York City, with a starkly different view of gun ownership than Upstate. When asked what, if anything, should have been done differently, the clerk stated his belief that the *SAFE Act* was not thought out, did not take into account how many different government agencies it would impact, and the costs of administering it. There should have been more communication, he said, and the process should have been thought out better. Mr. Piperato does not believe the *SAFE Act* will be revisited in a constitutional convention, and has to be amended in the Legislature. Finally, Mr. Piperato discussed what it's like being a clerk, saying the position of clerk is inherently constituent-oriented, and he does not hesitate to sit down with his local representatives in Albany if he feels like a law is negatively affecting his constituency.

Joseph Jastrzemski, County Clerk of Niagara County, and Wendy Roberson, Deputy County Clerk

Ms. Roberson began the interview by explaining to the researcher that when the *SAFE Act* was passed in their office was stretched beyond their capacity to serve the public. Lines of angry pistol permit holders formed out the door, similar to what happened in Erie County. The deputy explained that there was nothing the clerks could do about it; the law was passed suddenly and without consultation. Mr. Jastrzemski explained how the *SAFE Act* is still a very hot topic in Niagara County, which the deputy described as a strong 2nd Amendment county. The deputy stated that the pistol permit department became the focus of the clerk's office, which is

comprised of various departments. Staffing changes were made in the pistol permit department in an attempt to alleviate the increased workload. The Opt-Out feature, an incredibly popular feature in Niagara County, has resulted in so much paperwork that filing everything is still incomplete. The clerks explained that the recertification process presents a number of unanswered questions as to how the process will work. When asked what, if anything, should have been done differently, the deputy stressed the importance of intergovernmental communication, stating that units of government need to speak with one another when it impacts the entire population. The clerks were not sure if a constitutional convention would affect the *SAFE Act*. Finally, when asked about what it's like being a county clerk when controversial laws are passed, Mr. Jastzremski explained that while he may disagree a law, it is his job to uphold it. Ms. Roberson stressed the importance of organizations like the County Clerk's Association to lobby Albany to pass better legislation. Ms. Roberson concluded the interview by saying the differences between the counties in New York State really is notable and due to this the *SAFE Act* will impact each county differently, something the researcher has learned about as well.

Rhonda Pierce, County Clerk of Wyoming County

Ms. Pierce's office became very busy when the *SAFE Act* was passed and hasn't been the same since. She brought back a retiree part-time to help with the increase in pistol permit applications as a result of the *SAFE Act*. Right now, people are asking questions about the recertification process and that is the "hot topic" at this point. Local SCOPE chapters gathered people together in Wyoming County. Ms. Pierce said that she does not believe a constitutional convention would affect the *SAFE Act*. When asked what it's like being a county clerk and having to sometimes implement controversial laws, the clerk said that the law is the law and you have to follow it, and help your constituents have as much information about it as possible.

Jane Zarecki, County Clerk of Hamilton County

When the *SAFE Act* was passed, Ms. Zarecki stated that there were a lot of questions about how it would affect the residents of Hamilton County, but not a lot of answers. The clerk stated that the state police were also “in the dark”, and that the county clerks were not consulted beforehand about the *SAFE Act* and how it would affect their offices. Ms. Zarecki’s office received questions about the law in her office and through phone calls once “details started surfacing”, however information was still scarce. The clerk’s pistol permit department saw a “dramatic increase” in pistol permit applications, while she handled the implementation of the *SAFE Act* day by day, question by question”. The clerk’s constituency in Hamilton County reacted negatively to the passage of the *SAFE Act*, however no political protests or rallies occurred. When asked what should have been done differently, Ms. Zarecki said there should have been consultation, “better planning”, and “immediate and accurate dissemination of information”, as well as “a clear cut path of our direct responsibilities”. When asked what can we learn from this, the clerk said the law was “poorly thought out” and advocated for “better planning and implementation”. Finally, when asked if she personally disagrees with the *SAFE Act* or any other laws that are passed, how does she handle administering those Acts or pieces of legislation, Ms. Zarecki said “whether I agree or not does not matter, I still have to abide by the law as a constitutional officer”.

Michael Backus, County Clerk of Oswego County

When the *SAFE Act* was passed, Mr. Backus immediately tried to get a hold of the language to understand the impact it was going to have on his office, and knew significant changes were coming. Phone calls started coming in and Mr. Backus’s office had to start answering questions his constituents had about the new law, as his office serves as a “point of contact”. There was a significant increase in pistol permit applications in Oswego County as a result of the *SAFE Act*.

There were a few rallies in response to the *SAFE Act* in Oswego County at the time. The clerk went to gun clubs and hunting and fishing clubs to talk about the *SAFE Act* with members and answer any questions. Administratively, the clerk tried to stay away from overtime, but did have to make some staffing changes to address the increased workload the *SAFE Act* brought on. Mr. Backus stated the challenge right now with the *SAFE Act* is the recertification process, and he is concerned for his constituents who might have their permits revoked as a result of them not receiving the notification to renew from the state police. When asked what, if anything, should have been done differently, Mr. Backus said he would have liked to have seen a lot more communication from the governor's office and state assembly. He also said his office should have received some funding from the state to help implement the *SAFE Act*, which the clerk said did not "take into account the costs for my office". When asked what we can learn from this, Mr. Backus said "state legislation needs to be crafted with the locals in mind at all times". Mr. Backus believes the *SAFE Act* needs to be amended to address problems with the recertification aspect of the law. When asked if he believed a constitutional convention would affect the *SAFE Act*, the clerk said it was a broad question and he couldn't tell the researcher "one way or the other what would happen". Finally, when asked what it's like being a county clerk and having to sometimes implement controversial laws, the clerk said it's difficult and his main concern is for his constituents, and that is why he goes to Albany around six times a year and lobbies for his electorate.

Linda Compton, County Clerk of Schuyler County

When the *SAFE Act* was passed, Ms. Compton said it was "just an extreme amount of work" in her office. Her office's workload increased, and there was tremendous increases in the amount of pistol permit applications ("up probably 4-5 times the normal amount" the office normally

receives). Other departments received less attention and their work was “caught up when it was possible”. Some overtime was used, and Ms. Compton and her deputy county clerk had to “work extra hours to try to keep things caught up”. When asked how much notice was given before implementation of the *SAFE Act* was required, the clerk responded “next to none”.

Administratively, the *SAFE Act* has created a backlog of work in Ms. Compton’s office. She also expressed that her constituents seem confused about the recertification process, and many people, according to the clerk, have yet to receive a notice from the state police reminding them to recertify. Schuyler County, a small county, has not had any rallies, however Ms. Compton knows several people who have attended rallies elsewhere. The clerk said that her constituents were upset by the *SAFE Act*, with some residents coming into her office to turn their pistol permit in, saying they were moving out of state. When asked what, if anything, should have been done differently, the clerk said that they should have set aside time for a discussion, and that using a message of necessity to pass the *SAFE Act* “wasn’t right”. The clerk stated that it was probably passed using a message of necessity because otherwise it would not have. When asked what we can learn from this, Ms. Compton expressed her opinion that while she does not know “what the answer to this is”, that further gun legislation enacted in response to tragedies like mass shootings will not help prevent them. The clerk wasn’t sure if a constitutional convention would affect the *SAFE Act*, and stated that it might “open a whole lot of other doors that maybe shouldn’t be”. Finally, when asked what it’s like being a county clerk and having to sometimes implement controversial laws, Ms. Compton said that while she does not hesitate to speak out against laws she disagrees with, it is her job to comply with them as a public administrator.

Robert Christman, County Clerk of Allegany County

When the *SAFE Act* was passed in 2013, Mr. Christman felt it was an invasion of the 2nd

Amendment and had a negative personal reaction to the law. In his office, his constituents came to him confused and phone calls poured in. Even though the clerk shares pistol permit work with the sheriff's department in Allegany County, he still described the increased workload as "extremely time consuming". The local SCOPE chapter was active in Mr. Christman's county, and a large group of individuals went to a rally in Albany. The number of pistol permit applications in Mr. Christman's pistol permit increased significantly as a result of the SAFE Act, described by the clerk as "an onslaught". Administratively, the clerk had to "change some priorities" to handle the implementation of the *SAFE Act*. According to the clerk, "some aspects of the office had to have less attention". Mr. Christman told the researcher that there is a lack of "clear instructions" when it comes to aspects of the law. He then discussed the recertification process and the unanswered questions it creates. When asked what, if anything, should have been done differently, Mr. Christman said there should not have been a recertification process or re-classification of firearms, but the mental health provision is an aspect of the law the clerk finds acceptable, however there are issues with that as well. When asked what we can learn from this, the clerk stated, "laws should be made in the sunshine", should be done in a bi-partisan manner, and "we should not overreact to tragedies". When asked if a constitutional convention could affect the *SAFE Act*, Mr. Christman expressed his doubt one would take place, however if one did he thinks it could be detrimental to 2nd Amendment rights due to the upstate/downstate divide and where most of the political power lies in New York State. Lastly, when asked what the balance is like being an elected official and public administrator, Mr. Christman said it is difficult, and while he does not hesitate to speak out against laws he disagrees with, ultimately he must implement them.

D. Lukas Brown, Deputy County Clerk of Chenango County

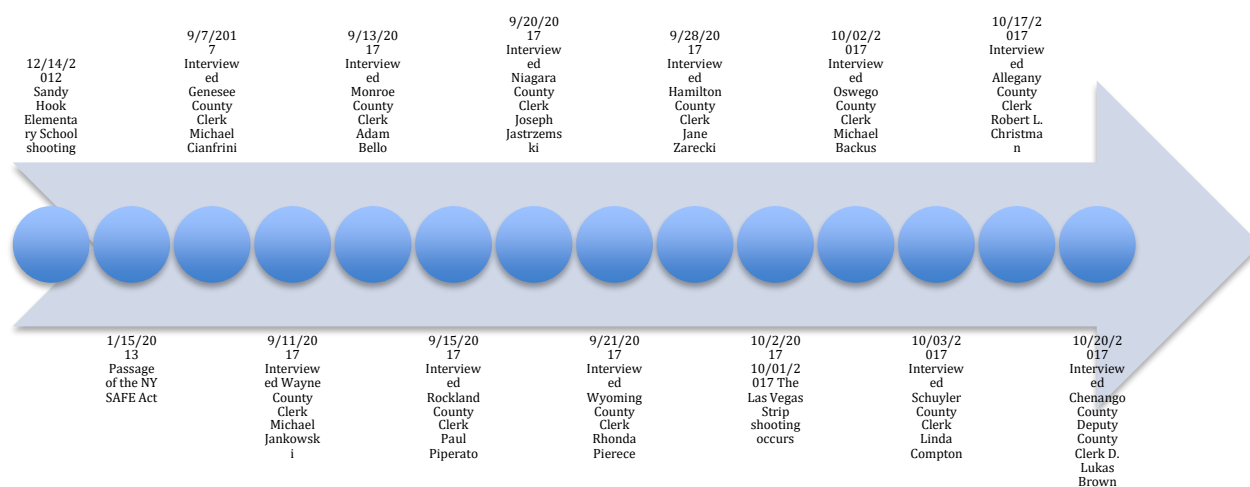
When asked what it was like for Mr. Brown when the *SAFE Act* was passed, he stated the effects to his office were not immediate. There was some initial confusion from constituents, and his office remedied that by printing out handouts with information and contact information for the state police. When asked if there was an increase in the volume of pistol permit applications, the deputy responded that while he has not compared the numbers, it does seem like more applications have been handed out. Mr. Brown's office did not have to make any changes in any staffing procedures as a result of the *SAFE Act*. The deputy did state that as far as the largest impact the *SAFE Act* has had on his office has been a result of the recertification process. While there was some confusion at first, Mr. Brown's office took the initiative to print out handouts with information with clear instructions of how to recertify. The deputy believes that the recertification process is working, with the goal of creating more accurate records. Based on what the deputy told the researcher, it seems the Opt-Out feature seems to be popular in Chenango County. While the local SCOPE chapter is active, and there have been some gatherings, there have been no large scale rallies in Chenango County in response to the *SAFE Act*. When asked what, if anything, should have been done differently, Mr. Brown did state that his believes the "state gets criticized largely" because the law was passed without public comments, input from county clerks, sheriffs, and other government officials. When asked if a possible constitutional convention would affect the *SAFE Act*, Mr. Brown said that based on public opinion polls he's been reading he does not believe there will be one, but in the event there is he thinks the *SAFE Act* will be brought up in some way. Lastly, when asked what the balance is like being an elected official and public administrator, Mr. Brown stated that his role in everything is to uphold the law, and direct his constituents to the individuals who can affect

policy, such as their legislators. He also added that there always seems to be issues with communication between different levels of government when it comes to “big administrative changes” like the *SAFE Act*, a theme the researcher has found throughout his investigation.

Chapter 4 Discussion

Figure 6, below, contains a timeline of interviews and events.

Figure 6 Timeline of Interviews and Events



The Las Vegas Strip shooting occurred before two interviews but did not factor into the answers given by the county clerks.

This study explored the reactions of New York State county clerks who have implemented the *SAFE Act* in their offices. When asked what it was like for them when the law was passed, one clerk said that it caused “a lot of fear, a lot of discontent, among the population”. Another clerk said “we got hit by a tidal wave,” then discussed how he felt like there was uncertainty about what the law meant and how “a huge part of our population ran out and started the process to either buy new guns or to get a new pistol permit”.

Paul Piperato, the county clerk from Rockland County, also stated that his office became “inundated with people rushing in to get a pistol permit.” He told the researcher that whenever there is a tragic event in this country, like Sandy Hook, the public reaction includes an increase in pistol permits. When interviewing the deputy county clerk from Niagara County, she stated that when the *SAFE Act* was passed “we were stretched beyond our capacity to service the public”. A 22-year veteran of the clerk’s office, she has never seen anything like it.

Most of the clerks told the researcher that their offices became dramatically busier and the volume of pistol permit applications increased significantly after the *SAFE Act* was passed. No additional funding was provided by the state to implement this law, resulting in some counties having to use overtime to properly manage the mass influx coming in their offices. Others had to make changes in staffing procedures, while some just “hunkered down”. Some clerks made sure to praise their staff and noted that they worked diligently to handle the increased workload.

One significant way the *SAFE Act* will affect the clerk’s offices is the recertification process. One clerk said that the re-certification process was supposed to be rolled out over the course of five years, however the state waited until just this year to begin the process, which the clerk said has “been a pretty big burden on our offices”. The researcher discovered that the recertification process is causing a great deal of confusion among the clerks and the public. In the event that somebody does not recertify, their permit will be revoked and all their firearms will be seized.

A myriad of questions arise in the event this occurs; who is going to revoke the permit? What if they did not receive their recertification notice due to an administrative error, or if they moved and forgot to change their address, et cetera? Would they be entitled to a hearing in the

event of revocation? The law states that all firearms will be seized, does that include firearms that do not need to be registered, such as shotguns? Many clerks told the researcher that these are currently unanswered questions and that the state police and judiciary are as much in the dark as the clerks. One clerk said regarding the recertification process:

The state police don't have the staff to enforce it. Then now it's going to fall on the local law enforcement, whether they're public officers or sheriffs, or town police, they're the ones who are going to have to go out when the judge orders those guns to be turned over, they're the ones that are going to have to go out and find these people. So it's a big burden on the local government, my office, local law enforcement and definitely the justice system because they know they're going to follow the law but there's no way that they would have the staff, or the amount of licensing officers available to enact this law all at once. There's no way to do it.

A possible administrative challenge for the clerks would be pulling files of pistol permit holders who did not recertify and sending them to the issuing authority for revocation. According to one clerk, most county clerk's offices in New York State do not have an electronic database of their entire pistol permit files. Older files are listed in books, some in index card systems. To go through all of these files to determine who did not recertify would be as one clerk said "an incredible undertaking".

Some clerks stated that the mental health provision and Opt-Out component were positive aspects of the law. "The mental health check has been working," one clerk said, "That's a good part of the law. Most of the incidents that have taken place have been involved with people who have a mental disorder". The Opt-Out component, which protects the information of pistol permit holders from FOIL requests, is a popular element of the law. "This desk had at one time over 20,000 Opt Out forms laid cross the desk that needed to be alphabetized and filed into people's files. It's still not done," said the deputy county clerk from Niagara County, Wendy Roberson.

When asked how much notice the clerks were given before implementation was required, answers included “zero”, “it was just dropped out of the sky on us”, and “next to none”. Many of the clerks interviewed noted their office received a lot of phone calls about the *SAFE Act*, while in Erie and Genesee County political rallies and protests occurred after the law was passed. One clerk said that SCOPE meetings increased from typically 10 or 11 people to up to 200 in his county.

The researcher asked the clerks what they believe should have been done differently. The general consensus is that there should have been consultation with the clerks and other government agencies before the law was passed. One clerk said, “they should have gotten input from various organizations, specifically with respect to the implementation of the Act, there should have been a lot of discussion especially with county clerks, with different sheriff’s departments, on how this would affect them, possibly provided some funding for us”.

Some clerks expressed that the *SAFE Act* should have been passed through the traditional legislative process instead of being passed using a message of necessity. One clerk said, “That’s why you need hearings, that’s why there needs to be process, and none of those occurred with the passage of the *SAFE Act*”. Another clerk, when asked what, if anything, should have been done differently, referred to the recertification process and stated, “One thing I wish the *SAFE Act* had probably spelled out a little more clearly was what would happen once the recertification process took place. What is the clear responsibility of the clerk, versus the court, versus the sheriff, versus the state police? That really wasn’t worked out”.

The *SAFE Act* has impacted the budgets of the county clerk’s offices due to it being an unfunded mandate. Some clerks mentioned that funding should have been provided. Here are examples, the deputy county clerk of Niagara County said, “...We got nothing. Nothing. Not a

dime. And it truly did impact us”. Another clerk said, “...All of those provisions could have been incorporated into a better piece of legislation that took into account the costs for my office. There is actually a dollar amount that costs my office in this regard as well”.

When asked what we can learn from this, one clerk stressed the importance of process when it comes to the legislative process, stating, “That’s why you need a process by which to review a statute and then if its got the votes, you can vote in the light of day, or if you have to do it in the middle of the night it probably isn’t the best piece of legislation. But this is New York, and odd things happen in this state”. Other clerks referred to the SAFE Act as a knee-jerk reaction that was passed hastily, evidenced by the subsequent changes they need to make including exempting police officers and acknowledging that seven round magazines do not exist.

When the researcher asked the Schuyler County Clerk, Linda Compton, what we can learn from this and mentioned that the controversy of the *SAFE Act* is not going away, she replied:

No it isn’t. I really don’t know what the answer to this is. I understand especially in light of the last couple days news, I understand the concern that people have about handguns, but I think I probably feel the same way that most of this country does. It’s not me or you that’s doing some of these horrific acts. This law is not going to help any of that. I don’t know what the answer is, but this certainly has not done anything, it’s actually put more legal gun owners out there, which is not a bad thing I guess, as long as they learn how to handle the weapons. The amount of pistol permit applications has gone up probably 4-5 times the normal amount that we would have in one month’s time.

The clerks gave varying answers to the researcher when asked if they believe a constitutional convention would affect the *SAFE Act*. One clerk said that he believes a constitutional convention would further erode 2nd Amendment rights, stating, “I think that the forces that passed the SAFE Act in the first place would probably hold more sway than anti-SAFE Act voices statewide, basically because of New York City and downstate”. A different clerk believed

it could affect the law either way, and “your viewpoint on it would say whether or not the effect is good or bad, but I do think it would have an effect”. Some clerks said that they didn’t believe the *SAFE Act* would be affected at all, or even visited. Most of the clerks are either against a constitutional convention or wary of one because, as one clerk said, “I think it would open a whole lot of other doors that maybe shouldn’t be.”

When asked about the balance between being an elected official and public administrator, many clerks responded by stating that “the law is the law, and we must implement it and follow it”. Public administrators do not make policy, they are forced to implement laws, and this was being revealed in the interviews. The problem is that in the unitary relationship between the counties and Albany, clerks must implement laws regardless of how they or their constituencies view those laws.

One clerk particularly articulated this dilemma by stressing the importance of the county clerk position being elected rather than appointed. Wayne County Clerk Michael Jankowski said:

It’s extremely important that you have these offices...That you have elected officers in these different positions, people look at the clerk “well, that’s purely administrative, that should just be appointed”. No, our forefathers were very wise when they put elected officials into these because you need checks and balances within the system. Being an elected official, if a judge was ever to tell us to make a record disappear, only an elected official would have the ability to stand up and tell him “no way, you’ve got to do this in writing.” You need to have that ability to stand up and say no, and drag things into the sunlight. If you’re just staff, it’s much harder to stand up to your bosses then when you’re an independent elected official.

In analyzing the interviews, the researcher sees the concern over message of necessity coming out in the *SAFE Act*. The continuing controversy over the *SAFE Act* is not unexpected considering the two party system in New York State divided over the issue of gun control, and an upstate/downstate divide where upstate New York residents feel politicians from more liberal New York City are infringing on their 2nd amendment rights. As the county clerk from Rockland

County said to the researcher, “Down here we’re about 35 miles north of New York City. So, we’re a suburb, so, there’s a different opinion on gun ownership”.

Chapter 5 Recommendations, Future Research, and Conclusion

Recommendations

The purpose of this study was to explore the reactions of New York State (elected) county clerks when they must implement policy in which they effectively had no voice, but which may be controversial among their constituency. This investigation was conducted through semi-structured interviews with 11 county clerks throughout New York State. The researcher has analyzed the data collected through interviews using thematic analysis, and after the coding process, the following themes were discovered that form the basis for several recommendations. These include:

Communication

Many of the clerks discussed problems they are facing with intergovernmental communication, particularly with the state police. The researcher learned that the state police, the judiciary, and other government organizations are likely as “in the dark” about certain aspects of the law as the clerks. When there is a lack of communication between various government bodies responsible for implementing and complying with a law as comprehensive as the *SAFE Act*, it has understandably resulted in dissatisfaction and anxiety from elected officials like the county clerks who have to answer to their constituents. More frequent and clearer communication could ameliorate such issues.

Consultation

Many of the clerks also told the researcher that the state should have consulted with them before the *SAFE Act* was passed, which would have allowed them to address concerns about the law. Instead, most of the clerks told the researcher that no notice was given before the law was passed. Multiple potential issues that ended up becoming an actuality for the clerks could have

been addressed, particularly how the law would impact their offices. In addition, other government agencies that the *SAFE Act* affects should have been consulted as well, such as local sheriff's offices, state police, and the licensing officers in the counties.

Funding

Funding should have been provided for county clerk's offices to aid in the implementation of the *SAFE Act*. The dramatic increase in workload the clerk's offices experienced could have been anticipated by communicating with the county clerks. The clerks would have undoubtedly expressed that a law such as the *SAFE Act* would increase traffic to their office, just as their workload increases close to presidential elections and other events in the country. Unfunded mandates and their unpopularity is discussed in the literature. In this case, this unfunded mandate resulted in the clerks having to handle a dramatic increase in traffic to their offices, in some cases resulting in staffing changes and overtime.

Uncertainty about the Law and its Language

Many clerks mentioned that when the *SAFE Act* was first passed there was a great deal of confusion about what various aspects of the law meant and how it would impact their offices. One clerk said, "We immediately tried to get a hold of the language, try to understand what the impact was going to be on us, and very quickly we realized that there was going to be a significant change to our procedures." The researcher's recommendations include drafting legislation that clearly states what tasks each government agencies is responsible for, and describing aspects of the legislation in a clear way to avoid what some clerks described as ambiguous language.

Public Comments

The consensus from the clerks is that there has been a negative reaction to the *SAFE Act* from

their constituencies. Public comments should have been encouraged to determine how the citizens of New York State felt about the *SAFE Act* before it was passed. This study focused on the county clerks and how this law affected their offices, but ultimately this law affects the people of New York State, and their opinions were not considered and they had no voice before this law was passed. In addition, the advise of organizations with an expertise in firearms should have been consulted to discuss aspects of the law regarding the classification of firearms to cosmetic changes.

Recertification Process

The recertification aspect of the *SAFE Act* was brought up many times during the interviews with the county clerks, and some discussed ideas for making this process better. One issue that seems to be present is each county has its own computer system for recording pistol permit files. Additionally, some have different filing systems that were used before digitalization (index card systems, books, et cetera). A recommendation to address the problems resulting in such a disjointed variety of filing systems would be one unified computer system throughout the counties that could also be linked to the state police's system.

Future Research

Future research could consist of studies of other government agencies, such as the state police, judiciary, and sheriff's departments, to offer a more complete view of the *SAFE Act*'s impact. After discussing the *SAFE Act*'s recertification process with the county clerks, various questions arose about how the state police would handle the revocation process in the event a pistol permit holder fails to recertify.

Additionally, assuming that each pistol permit holder would be entitled to a hearing process if revoked, what is that process going to be like for the judicial system in each county

and are they prepared for this process? Studies could also be conducted in counties where the sheriff's department, as opposed to the county clerk, handles the pistol permit process, by interviewing the sheriff's in each county and inquiring how the *SAFE Act* has affected their departments.

Conclusion

The purpose of this study was to examine the reactions of county clerks who have implemented the *SAFE Act* in their offices. It was found that the lack of consultation from Albany has resulted in dissatisfaction amongst the county clerks. The *SAFE Act* has caused administrative issues in the clerk's offices due to the significant increase in workload, and the lack of any funding from the state to mitigate this has exacerbated these issues. When comprehensive legislation is passed in Albany that affects multiple local government agencies, consultation and intergovernmental communication is strongly recommended and supported by the findings of this study.

The researcher has learned that, according to the clerks, constituent reaction to the *SAFE Act* has been negative. As one of the clerks told the researcher, when Albany passes laws that significantly affect the public, and the public effectively has no voice, public reactions can quickly become acrimonious. The recertification aspect of the *SAFE Act* has caused frustration among the county clerks due to the lack of communication between government agencies collectively tasked with ensuring the law's function.

The message of necessity, an aspect of the New York State constitution used by both Democrat and Republican governors, should only be used in the case of true emergencies and not for partisan issues. Laws should be written clearly, with unambiguous instructions for the responsibilities of public administrators and other government officials, and should be passed "in the sunshine". This investigation may assist policy makers by showing them the adverse

ramifications of pushing a law as impactful as the *SAFE Act* through a legislature without consulting the smaller governmental bodies tasked with its implementation.

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Appendices

Interview Questions

1. What was it like for you when the SAFE Act was passed?
2. How did the SAFE Act affect your office administratively?
3. What is it like complying with this law now?
4. How did you handle the implementation of the SAFE Act?
5. How did your constituency react? What kind of pressures, if any, do you have and where are they coming from?
6. Was there an increase in the volume of applicants in the pistol permit department? Did any political protests or rallies occur?
7. How much notice were you given before implementation was required?
8. If your office is experiencing any problems with the SAFE Act, have they resolved themselves or are they still a problem?
9. What, if anything, should have been done differently?
10. What can we learn from this?
11. Do you think a possible constitutional convention will affect the SAFE Act?
- 12: If you personally disagree with the SAFE Act or any other laws that are passed, how do you handle administering these Acts or pieces of legislation?

Interview Transcripts

Interview with Genesee County Clerk Michael T. Cianfrini – 9/7/2017

CK: When were you elected for this position as county clerk?

MC: I was elected in 2015. I began working as a deputy county clerk in 2013 immediately after the SAFE Act, shortly after the implementation, after it was passed.

CK: What was it like for you when the SAFE Act was passed?

MC: As a public official, in this office, it caused a lot of fear, a lot of discontent, among the population especially in Genesee County which tends to be a very rural, conservative population. We do have a lot of pistol permits issued. Out of 60,000 residents we have anywhere from...we don't have an exact number because a lot of them were older before they were digitalized. Probably in the neighborhood of 7,000 to 9,000 pistol permits. There was just a lot of fear about how this would affect them.

CK: How was that expressed? Were there any political rallies, phone calls?

MC: Both. For this office we had a lot of phone calls asking how this was going to affect their pistol permits. In the public, they had rallies. I was at two of them they held at the state police barracks.

CK: I remember them outside of County Hall in Erie County.

MC: Organizations like SCOPE (Shooters Committee on Political Education); they were pretty active in that. I got to know the president of SCOPE. He wanted to coordinate with this office, as information was passed on to us he wanted to make sure that we had an open line of communication so I would pass everything onto him, so that he could give accurate information to his members.

There was a lot of chatter in the community about it. People weren't real happy.

CK: How did the SAFE Act affect your office administratively?

MC: I printed out a firearm statistics log from this office that I can show you. You can see historically the number of pistol permits issued. See, 106 in a year, 108 in a year. 92, 50, 72, 78, 83, 206, that was a big one and I believe that had more to do with the presidential election than anything. 124, now you see 2013 the SAFE Act was passed, all of a sudden we go to 479. So I think that shows the immediate effect of it. In terms of amendments, amendments are adding guns, removing guns, things like that. You see 1,019, 1,161, all of a sudden right after the SAFE Act, 3,100. It tripled. And it stayed there; you see 3,036 with 2,011 amendments, 2,020 amendments. Those are just people putting guns on. And here you see, in 2016, we did 671, you were seeing historically we were doing 70 to 100 new permits per year, you see in the years after the SAFE Act we've now gone to 671 and 3,190 amendments, we're already at 291, we're on pace to be well over 400 again and well over 3,000 amendments.

So you can see in terms of the effect on our office we've issued a lot more permits, we've done a lot more and processed a lot more amendments. With the corresponding increase in traffic to our counter, time by my staff, phone calls, things of that nature.

CK: Did you have to change any staffing procedures or use any overtime?

MC: We haven't. We purposefully tried to avoid that. We tried to avoid it because of tight budget constraints, number one. We're not sure even had I made the request for more staff it would have been denied. What we did was just buckle down, we typically had had one person

assigned to handle all things pistol related, we had to make one of the other staff her backup so that there was two of them, and then we also cross-trained pretty much everybody else so they could handle amendments at the counter, adding guns, removing guns, so we pretty much just spread the workload among everybody. It was the best we could do. Increasing staff and overtime really wasn't an option for us.

CK: Is your office still experiencing effects from the SAFE Act?

MC: Absolutely. The big thing this year in 2017 is the re-certifications are due January of 2018, for anybody who had a pistol permit prior to 2013.

CK: Now is the state handling a part of that, or what is the breakdown?

MC: It's really been a nightmare, if I'm being honest, from the state because they passed this law, as it was passed everything was going to be handled by the state, the counties were to have nothing to do with it, in fact almost every county in the state passed resolutions saying you can't use our seal, you can't...nothing can be put out there to the public to make it look like the counties were implementing this.

It's not the way it's worked out. We've been to several county clerks conferences. The state was just woefully unprepared to roll this out. The re-certification was supposed to be rolled out over the course of 5 years between 2013 and 2018. What they did was sit on it for almost 4 years and all of a sudden at the last minute say "Okay, here", and in the last year all however of many 100,000's of pistol permit holders throughout the state suddenly have to re-certify in this one year. So they just threw that on us.

So what we're dealing with now, is everybody now suddenly says "oh boy, I have to recertify, now my records have to be accurate, I need to come in, I moved I didn't change my address, I got rid of this gun, never removed it from my permit" and everybody's been rushing in now trying to take care of that, getting the records cleaned up, in anticipation of recertify. Which is a good thing, the records should be accurate. But by cramming it all into one year, it's been a pretty big burden on our offices.

CK: How much notice were you given before implementation was required?

MC: It was just dropped out of the sky on us. I don't think anybody in the state got much notice, they waived the three-day waiting period, and it was pushed through in the middle of the night because they knew there would be a pretty large public outcry if there was more notice given. So I think they intentionally avoided giving a lot of notice.

CK: What do you think should have been done differently?

MC: I think there's a lot of things they could have done differently, from a public relations perspective I think they should have, this should have been out there, it should have been discussed, there should have been public comments, they should have gotten input from various organizations, specifically with respect to the implementation of the Act, there should have been

a lot of discussion especially with county clerks, with different sheriff's departments, on how this would affect them, possibly provided some funding for us, we found that the big thing specifically in regard to the re-certification process for years there was, if there was funding for it which I'm not even certain there was funding initially, but if there was there was no actual work being done on it.

I basically get the impression that they had no real plan on how the recertification process was going to work. And to be honest I think they still don't have everything figured out, there's still several aspects of the recertification that are unclear, specifically with regard to in the event that people don't recertify, the law reads that their permits shall be revoked, the question that's been asked countless times is "who does the revocation? The counties are not supposed to be involved in that" So the state initially had said well we will administratively revoke them from the state level, my understanding now is that they are now changing it and saying "no, we cant do it, it has to be the issuing authority, which would be the judge in this case" so then the question becomes "okay so does that mean that my office is responsible for ascertaining people who haven't recertified?" and then pulling their files and sending them over to the judge for revocation? If that's the case then are each of these people entitled to a hearing on the revocation? Again, if that's the case, we could be potentially, if we use a figure of 8,000 pistol permits, if 90% recertify but only 10% don't, we're still talking 800 people, if each of them get a hearing are we going to do 800 hearings? That'd be impossible. So, we're still kind of in the dark about how certain things are going to work administratively, and I think the state could have really gotten some input from us and had all of this worked out before passing it.

CK: Do you think we can learn something from this?

MC: In my opinion, absolutely. This shows the negative repercussions when you have a very hastily knee-jerk reaction, a very hastily prepared law that affects so many people without the proper thought that goes into it prior to passing it.

CK: There's a possibility of a constitutional convention. If there is one, do you think it will affect the SAFE Act at all?

MC: This has been a topic of discussion among a lot of county clerks. My personal opinion, I would not be in favor of a constitutional convention. If there was one, personally, I think it would in terms of gun rights, I think it would be probably come out worse than it is right now, simply because of the population of New York, I think that the forces that passed the SAFE Act in the first place would probably hold more sway than anti-SAFE Act voices statewide, basically because of New York City and downstate.

I just personally think that 2nd amendment rights would probably be further eroded by a constitutional convention and although the hope among SCOPE members and organizations like that is that they could secure more rights with regard to the 2nd amendment, that they could overturn the SAFE Act through a constitutional convention, my personal opinion and the opinion of a lot of the more upstate county clerks is that it probably wouldn't work the way that they would hope.

CK: One thing that I think is interesting about the county clerk position is that you're both a elected official and a public administrator and you have to answer to the state because we have a unitary system where Albany dictates and the counties have to follow. What is that balance like to be both an elected official with your own constituency and yet sometimes you have to implement these very controversial laws that your constituency might be vehemently opposed to?

MC: It's a good question, and it's tough sometimes, specifically with regard to the SAFE Act, there are a few provisions of that have caused a lot of concern among my constituents. To give you an example the biggest one probably being the Opt Out provision of the SAFE Act. You're probably aware, certain news agencies had requested lists of all the pistol permit...

CK: You used to have to provide it.

MC: Still do.

CK: Even with Opt Out?

MC: Well, the way the law is written, that pistol permit records suddenly became public records subject to disclosure unless you filed an Opt Out. The practical effect of that as written is that if somebody has not filed an Opt Out then their pistol permit information is subject to be turned over to any agency that FOILs it. That caused a lot of people in this county to be upset. What I did myself, I went to the various organizations and I assured them that my office would do everything within our power to not turn over that information. I personally, this is just me as a private citizen, I don't believe that the information that's contained within the pistol permit file should be subject to be turned over to news agencies for publication. I just don't think anything good can come of that. So I assured them that if FOILED, I would deny the FOIL. If they wanted to take it further, I would fight it through the courts. I would do everything within my power to keep their information confidential.

At the end of the day when everything's exhausted, I would comply with the law, but up to that point, I would fight it tooth and nail. Within this office we've taken certain steps to make it more difficult for that information to be turned over. We have our Opt Outs are not digitalized...we have no way to electronically cross-reference them. That wasn't done by design necessarily at the time this was implemented, we didn't really have the means to do that. But now that we're several years in, we've gotten thousands of Opt Outs. Now we just don't have the staff to go back and do it but as it works out, that kind of assists us in being able to justify the fact that we can't produce a record of who has filed an Opt Out and who hasn't. So that would be one of the basis for which I would refuse to comply with the FOIL.

In terms of the revocations, I've spoken with the issuing authority, which is the judge in this county, in terms of how they would want to handle if people haven't recertified, there's many reasons why somebody might not recertify. Maybe they're diametrically opposed to the law, and just saying they will not comply with it. A lot of people may have moved and have forgotten to change their address, so they didn't receive the notification, other people may just forget. There's many reasons why, or it could just be errors at the state level, and we see that all the time. The

state makes mistakes. But in the event that they haven't recertified, again, the law says their permit should be revoked, I'd hate to see 100s or potentially 1,000s of permits revoked, especially in those cases where it's not the individual's fault.

So, we're trying to come up with a process by which these people would have every opportunity to recertify prior to the judge revoking the permit, and he's on board with that, so we're going to hopefully do that to try to ensure that people's permits will be safe even in the event they don't recertify, that we will get word out to them, that we will notify them and make every effort to avoid revocation. It's about all I can do, as you said, I do feel especially as a lawyer we are subject to the law, I disagree with it, but it is the law, so within the confines of what I'm able to do legally, I'm going to do it.

CK: Is there anything else that you would like to add about any of the previous questions or anything related to this subject?

MC: Not that I can think of. It's just too early; it's an open question as to how this is ultimately going to play out. One of the other things that's caused a lot of concern among especially SCOPE and other gun organizations, the law says that in the event that you don't recertify your pistol permit is revoked, it also says that all your firearms shall be seized. I don't know if that was intentional when they put that in the law, it wouldn't shock me if it was, or if it was just an oversight. But in essence that makes somebody's shotgun puts that at risk of being confiscated in the event you don't recertify your pistol permit. How is that going to play out? We don't know yet. We don't know the ultimate effect on our counties with regard to the revocations. As I said, we constantly are asking the state police "what have you done on this? What processes have you guys come up with that you can give us some guidance on this?" and we keep getting "well, we're working on it. We don't know yet". We're within the last several months before this process ends, you have until January to do it, and we still don't have an answer. It's caused a lot of stress, both administratively and in concern for my constituents. I'm not happy with the law at all.

Interview with Wayne County Clerk Michael Jankowski – 9/11/2017

CK: What year were you elected to the county clerk position?

MJ: 2005.

CK: My first question is what was it like for you when the SAFE Act was passed?

MJ: We got hit by a tidal wave. There were two primary effects, the first one of course is the uncertainty of the law, there's huge gaps, it's a horribly drafted piece of legislation where there's great gaps and uncertainty as to what it meant. It was a very complicated piece of legislation because there's so many components to it. And of course then it had the additional effect of a huge part of our population ran out and started the process to either buy new guns or to get a new pistol permit.

CK: That's what I was going to ask - how your constituency reacted, what kind of pressures, if

any, did you have, where did they come from? Were there any political protests or rallies?

MJ: You had the protests that the SCOPE guys put on. We didn't have anything inside Wayne County, but I'll tell you, I attended the SCOPE meetings prior to the SAFE Act and there would usually be 10 or 11 of us meeting at a Legion Hall. And after the SAFE Act passed there were up to 200 people showing up to those meetings, they're now down regularly of over 100 people attending.

CK: How did the SAFE Act affect your office administratively?

MJ: Again the two components of it – one is trying to figure out what the law meant, and then two, on the amount of volume that came in to and actually hit our office.

CK: How did you handle that? Did you have to change any staffing procedures or use any overtime?

MJ: No, I didn't have to do that, it was just that the staff really worked hard and pulled to get us through the worst of it. I had a lot of experienced staff so they were able to get those transactions run. I can give you the data as to, just some of the impact of how it hit us.

Let me give you the numbers I've got for 2014, the number of new permits that I had was 683. 2015, it was 383. And 2016 was 617. That was the number of applications to get permits. And the number of gun adds, this is not all transaction for pistol permits, we had adds of 1,252 in 2014. 1,334 in 2015. And 1,633 in 2016. I'd have to try to dig out my annual report...

So for new permits in 2012 I had 340 new permits. And in 2013 I had 568. And then add guns was 1,280 in 2012. And that shot up to 1,660 in 2013, so that gives you the basic numbers for some of the number impact it had on my office.

CK: You were saying that your staff pretty much handled everything, are you having any problems with the SAFE Act now in your office, or complying with the law?

MJ: The SAFE Act isn't one piece, there's multiply pieces to it, like right now we're working our way through the recertification process on pistol permits. In that circumstance you've got the state police have been feeding out details for how this is going to be enforced and it's changed a number of times. Initially we were getting a list of everybody who failed to recertify on February 1st of 2018, because everyone who has a pistol permit prior to January 31st 2013 has to recertify their permit by January 31st of 2018.

CK: Otherwise their permit will be revoked?

MJ: It will be revoked.

CK: By who?

MJ: That's one of the active questions. Because you say revoked, okay, what does that mean,

does that mean the state police do it, does that mean the judge do it, what does revoked really mean, because under the statute that means that somebody's pistols are to be, not just their pistols, if you have your permit revoked all of your firearms are confiscated.

CK: Like shotguns for example?

MJ: Shotguns, long rifles, the whole shooting match. And the state police are of course not defining it. The judges are trying to figure out what that means. If that was clearly not the intent of the Legislature was to take everybody's firearms. If they fail to recertify and, to the effect the way the statute was constructed they're just shoehorning it into revocation.

And a revocation prior to the SAFE Act was purely the result of a criminal action, domestic violence, a felony or something along those lines, so that it was something you would take away everyone's firearms, whereas this is purely an administrative matter. So everybody is trying to figure out what that means and then you get to the latest version is that the state police are going to give us a list of everybody who has filed a recertification, not that their application has been accepted, but purely that it has been submitted, and then we're supposed to come up with a list of people who failed to recertify, well that's kind of challenging because most of upstate their pistol permits records are not digitized, they're literally using index cards, in a card catalog to access the files. It would be a gigantic undertaking to try to figure out who failed to recertify and then when you get to that stage, who's going to investigate where those permits are?

Is it going to be the state police, or is it going to be the sheriff's office, and they have to figure out whether somebody died, whether somebody moved, whether it's a person who just because they co-registered the gun, they're just not interested in continuing it, because you get a lot of guys, Wayne County does not restrict co-registration, so you can have 15 people co-registered on one gun. And so to the surprise of the state police, when they started this whole thing they figured they would end up with a database knowing where a gun is and who owns it, and that's not what the process was designed to record. It's not like a car registration. The process was designed simply to record whether you had permission to have a particular weapon in your possession. Not whether you owned it, or not whether you actually physically had it in your possession. So that's how that works.

So you can see this leads to a great deal of confusion as to what the steps mean and who's going to do what.

CK: Back in 2013, when the SAFE Act was passed, how much notice were you given before implementation was required?

MJ: Zero. The Legislature passed this in the middle of the night, like I said this is the worst piece of legislation I've ever seen. Nobody had any input on it beforehand. And as they, we just all collectively started trying to figure out what it meant after that happened, so that was in terms of the enforcement part of it. And again also too everybody's looking at the state police and they don't know what it means. They're trying to figure it out, and they're very concerned that their, they don't want to get themselves in trouble. And so there's a question of what does all this mean? And then the governor's office of course this is their main baby, so it was an extremely

political matter to say the least. So as trying to interpret that, then you throw on top of that the emotional reaction that came from the citizenry where a lot of people are just rushing out to get a weapon.

CK: What if anything should have been done differently?

MJ: I personally am very strong 2nd amendment so I oppose increasing or putting restrictions on the ability to get a firearm, but if there were people in the state who felt strongly about that, that's what you have a legislative process for. And if they had the votes to go, then they should have submitted the law in the light of day so they could have hearings, and you can have people who know what they're talking about in terms of how permits are handled, there's a lot of technical aspects with the guns. Their definition of an assault rifle was centered around a number of cosmetic items, and they got new rifles that are SAFE Act-compliant that I can't tell the difference. I'm not an expert but I can't tell the difference between those guns and the ones that were on the rack before the law.

So it as just purely cosmetics, it didn't even really get at the problems that they were trying to deal with.

CK: I think one of those were bayonet mounts?

MJ: There were a whole list of things, I don't know what they are, but they were just cosmetics, they weren't physical, because assault weapon was not really a category of weapon, it was a general description, but there's a lot of things that fall in that category. A high caliber weapon goes everything from a shotgun to a high-powered rifle, they're high caliber. And in Albany there was a law submitted by one guy that wants to ban 50 caliber weapons in the state of New York, well that's great that would ban every deer rifle in the whole state. That's why you need hearings, that's why there needs to be process, and none of those occurred with the passage of the SAFE Act.

CK: So as far as what we can learn from this, is there anything else that you'd like to add in terms of what we can learn from this?

MJ: Process. You need, when it comes to legislating, this goes beyond just the substance of the SAFE Act. There needs to be process and the review of a statute, every statute is supposed to be read three times before it comes to a vote in the chamber, and that means it needs to be reviewed at least three times, and that process slows things down, but that's when you get people saying "hey, they don't make guns that have less than a 10 bullet capacity, so you cant really negotiate 7 bullets versus 8 bullets versus 10 bullets in a magazine" like they did, and they did make that change later on, and then they had other things where weapons that the state police were carrying were illegal. That's why you need a process by which to review a statute and then if its got the votes, you can vote in the light of day, or if you have to do it in the middle of the night it probably isn't the best piece of legislation. But this is New York, and odd things happen in this state.

CK: Do you think that a possible constitutional convention would affect the SAFE Act?

MJ: I am very nervous about the idea of holding a constitutional convention because I'm not sure that the folks who would make up that body would turn out more favorable to the 2nd amendment than the people that are there right now. Reason I say that is that there's 3 delegates per Senate district. They'll make up the composition of the convention and then its going to be the political process that determines who those delegates are going to be. So, it's going to be in a very short period of time that the delegates would be selected and because you wouldn't know until November whether there's going to be a convention, and the selection process for those delegates would be in the spring of the following year because they're running in the November general election. So I'm very nervous that we would come up with anything better, in fact we could end up much worse. Right now each county has got some discretion with their judges, so there's a lot of variability between the counties, and that's good for us. Like Wayne County has a very open pistol permit process, whereas other counties don't.

CK: I do have one last question, and its about your position as a county clerk. One thing that I think is interesting about the county clerk position is that you're both an elected official with your own independent constituency and a public administrator, and the relationship between county and state is unitary, the state passes laws, the counties have to implement these laws. You have your own independent constituency that you represent, and yet at the same time sometimes you have to implement controversial laws that your constituency might be opposed to, so I was just wondering what that balance is like, and if you personally disagree with the SAFE Act or any other laws that are passed how do you handle administering these Acts or pieces of legislation?

MJ: That's what we talk about all the time. It's extremely important that you have these offices. I've given this speech lots of times in case you can't tell. That you have elected officers in these different positions, people look at the clerk "well, that's purely administrative, that should just be appointed". No, our forefathers were very wise when they put elected officials into these because you need checks and balances within the system. Being an elected official, if a judge was ever to tell us to make a record disappear, only an elected official would have the ability to stand up and tell him "no way, you've got to do this in writing" You need to have that ability to stand up and say no, and drag things into the sunlight. If you're just staff, its much harder to stand up to your bosses then when you're an independent elected official. We're a check on the judiciary in that they don't have control of the records, they produce the records but they don't have control of them. The same thing as far as the state goes with handling pistol permits, pistol permits are technically a court record, you've got another person that's taking care of those records and is responsible for them. My job is to preserve the records and make sure that they're accurate, as to what really happened, and to make them available to the public, and elected officials are important for doing that. As far as the state legislative process goes, we review as the County Clerks Association, there are many times that we have stood up on various laws and either gotten that law blocked or gotten the law changed. And you need again that independent voice across the entire county, and clerks are a pretty rambunctious bunch, we've caused conniptions to the DMV and to the governor and the Legislature many times.

CK: If you were elected in 2005 you may have been involved in the pushback from the clerks when then Governor Spitzer had an idea to give drivers licenses to undocumented or illegal

immigrants. There was a lot of pushback from the clerks.

MJ: It was a huge pushback, and yes I was very much involved in that. One slight difference there is that Spitzer was doing it by fiat, he was just signing an executive order saying “you’re doing this from now on” where it was in contrast to what the law said. So the clerks were standing up to him and saying that. Now if a law was passed to the contrary that would be a much more complicated question. Again, it’s the ability to stand up at the end of the day, the DMV is an agent of the Commissioner of Motor Vehicles, we’re not a constitutional officer like we are with the courts, but we do have the ability to stand up and go to the press and go to the public and say “hey, this isn’t right, here’s why”. And that ability, like all public officials to stand up to speak, I think serves the public very well.

Interview with Monroe County Clerk Adam Bello – 9/13/2017

AB: I was appointed county clerk last March to fill a vacancy, so I’ve been the county clerk since essentially April of 2016. Now when the SAFE Act was passed, a number of years ago, most provisions didn’t necessarily directly impact the county clerk, the one provision that does though the most deals with the recertification requirement. The real impact on the county clerks offices is really what’s being felt this year. And again, what’s also interesting about that, is that the recertification does not go through the county clerks office, its entirely administered by the state police, where the county clerk comes in to play is when there’s an issue with a recertification and it requires a judicial review or some sort of status change to the permit, that’s where the county clerks are going to start to see a lot of extra work and have some responsibilities.

CK: One thing I’ve learned is that people have to recertify by January of next year.

AB: Correct.

CK: And what I’ve learned is that there are a lot of questions about the revocation process because the law says that unless you recertify your permit is going to be revoked, your firearms are going to be seized, but by who?

AB: That’s correct and that’s really still the unanswered question that was not in the law was essentially the recertification requirement required that you recertify your pistol permit, its actually technically a pistol license, every 5 years, so to start that process it requires anyone who’s had a pistol permit prior to January 30th of 2013 needs to recertify by January 15th of 2018, and then after that date, its every 5 years from your issue date, so right now we’re having a large number of people recertifying, but then it’ll even out in the following years. But that’s right one of the challenges we have with the SAFE Act, and that is facing clerks, sheriffs departments, and the courts, is they said that if you fail to recertify your pistol permit the result is a revocation, the problem with that is there’s generally when there’s those kind of penalties you would have a judicial review.

CK: A hearing process.

AB: Yes, and that's generally considered a right of Americans before they're subject to something like that, there would be a review. So the judiciary would have to set up a review process before that happens, and then like you said then who would then be responsible for collecting the firearms. The other challenge with the SAFE Act is that it doesn't necessarily require just the pistols that are licensed to be confiscated...

CK: But shotguns too?

AB: All firearms, yes. Which who knows, those aren't registered, so who knows how many are in the house, and what's owned, and things like that. So that creates a challenge. And then also, the challenge that the county clerks themselves are facing is we've been notified by the state police that instead of telling us who has not recertified, so we can then pull those files, and send those the courts, instead they're going to send us a list of those who did recertify, and then we would have to go through our records. Most county clerks offices in New York State do not have an electronic database of all their pistol files.

CK: It's in an index card system?

AB: Ours are listed in books. So if anything before 1990 or so, so if it's past 1990 its digitized in our records, but if you got your permit before that, we have to look you up in index books, and then go find the paper files, which we have here in the building, but we have to then get the paper file and go through and look at it. So it's not as easy as saying we'll just compare the list of people who did, against your full list.

CK: That would be a considerable undertaking for your staff to have to go through all those files?

AB: Yes, absolutely. We're talking about 10,000s of pistol permit files that are not digitized, so they'd have to be gone through one at a time to look at the file, see if its still an active permit, did someone pass away perhaps so there's no permit? It's an incredible undertaking.

CK: Previously I had interviewed some rural county clerks. Monroe County contains Rochester, its more Democratic, do you remember what it was like in Monroe County when the SAFE Act was passed, and were there any political protests or rallies?

AB: I don't recall there being a lot of rallies and protests. There are some communities you go though and see some lawn signs that say, "Repeal the SAFE Act", you get some of that here. I think one of the largest impacts the SAFE Act has had here in that regard is I do wonder if that was tied to a dramatic increase in the number of pistol permit applications we received. The number of pistol permit holders in Monroe County has gone up substantially.

CK: Has your pistol permit department mentioned anything to you about the SAFE Act, any past issues they had or any challenges they are facing right now? What is it like in the clerk's office in Monroe County as they're complying with the law?

AB: The real impact its had on the clerks office, again, is the result of the recertification, is that

once people started to come in to recertify, or recertifying online or by mail, it started identifying issues with their permits.

For instance, they may have sold a weapon to somebody and never had it taken off their permit. There are individuals who came across firearms and never put them on their permit to begin with, which is a very big problem if that's the case. People moved but never notified us and changed it on their permit. You had a lot of issues where there were amendments that needed to be made on permits. We had earlier this year when the recertification process went live, through the state police, we had a very large increase in the number of people coming in our doors to process amendments, things like address changes, remove, things like that.

But otherwise in terms of interpreting the law or anything like that, not really, the real issue that has come into play is how the will the recertification be implemented after the deadline has passed, that's the real issue.

CK: What, if anything, should have been done differently?

AB: The main issue that I think needed to be addressed that wasn't was in the implementation of the SAFE Act. Again, my purview is very narrowly focused on my role as clerk of the court, and so where I keep the files, so the one thing I wish the SAFE Act had probably spelled out a little more clearly was what would happen once the recertification process took place. What is the clear responsibility of the clerk, versus the court, versus the sheriff, versus the state police? That really wasn't worked out.

And the other issue was the timeliness of having the recertification go live. It just went live earlier this year, so folks just now had the opportunity to recertify earlier this year, and so there's a condensed, in my view, period of time for people to be able to go online and do the recertification. There wasn't a lot of time to prep, and not a lot of time to figure out administratively how to do it.

And also frankly I think there could have been a little more conversation about what resources county clerks, sheriffs departments, and the courts have to be able to implement it. Because this is going to be a stress on our resources and our staff if in fact we have to go through, in a very short period of time, go through the process of digitizing our records and figuring this out. We were just notified by the state police a few weeks ago that that's how they were going to communicate the status of recertifications that way. I would have thought it would have been better to tell us who didn't recertify so we could pull those files and send them to the courts, and not the other way around.

CK: Do you think a possible constitutional convention would affect the SAFE Act?

AB: I think it's entirely possible, yes, the constitutional convention, I think if that were to happen all bets would be off on a number of issues. I think it could affect it either way. It could codify the SAFE Act into the constitution, which then makes any changes to it or amendments to it very difficult to achieve. Or it could eliminate the SAFE Act altogether. So no matter which side of the fence you're on, you like the SAFE Act, you don't like the SAFE Act, you think changes

should be made, it's perfect the way it is, whichever, I think a constitutional convention, which is why I oppose a constitutional convention for a number of reasons, it would make it very difficult to amend that law. So I think it could have an effect, and your viewpoint on it would say whether or not the effect is good or bad, but I do think it would have an effect.

CK: I do have one last question, I know you're new to the position, but one thing that I think is interesting about the county clerk position is that you're both an elected official with your own independent constituency and a public administrator within a county-state relationship where Albany passes laws and the counties have to follow them. So I was wondering what that balance is like? You're an elected official, you have your own constituency you represent, at the same time sometimes you have to implement these controversial laws that your constituency might be opposed to. What is that balance like?

AB: That's a really good question Chris. It's a difficult position to be in because my budget is controlled by the county legislature and the county executive. My access to other administrative functions, HR functions, finance functions, things like that, are dependent on other elected officials. And the role of the county clerk is largely... you hear a lot about state and federal mandates driving local government. The county clerk is very much a mandate. The county clerk is a constitutional position in New York State, every county is required to have one. Counties are not required to have a county executive, but are required to have a county clerk. Largely what I do is govern by state law and the state constitution, or federal law, and or county law. We really are the vehicle to carry out those state mandates, and so I think it's a difficult job because we are essentially carrying out mandates that are the decisions of other people.

I think though that county clerks are largely judged by how they carry out those mandates. So, I'm mandated to operate a DMV. I have to under state law, we're an agent of the New York State Department of Motor Vehicles. But how we carry out that mandate, and then on top of that mandate I'm given a budget by the county legislature and the county executive that I have to operate within, so I'm given a budget that's not entirely up to me, and I'm given parameters of how to operate that are not up to me, or a mission that's not up to me. But how I do that is up to me. I'll give you an example, last fall we implemented essentially a reservation system for our Monroe County DMV, very similar to what Erie County has, it's a skip the line system. That was my choice to do that. I think people like that, I think that was a good change, it was a good way of administering DMV services. I wasn't required to do it by anyone. So county clerks are largely judged on things like that, how they're implementing their mandates. But it is a constant challenge because we drive a profit essentially for Monroe County, we take in more revenue than we spend, so it's a constant struggle, if we feel like we need more resources to be able to keep lines short and do our jobs, that means less revenue to the county to help offset expenses in other county departments, so it's a difficult position to be in.

Interview with Rockland County Clerk Paul Piperato – 9/15/2017

CK: When were you elected as Rockland County Clerk?

PP: I was elected in 2006. I'm in my 12th year as county clerk of Rockland. Prior to that I served for 16 years as a deputy to the previous clerk. I've been around awhile.

CK: What was it like for you when the SAFE Act was passed?

PP: For me in my office it was a lot of unknown. We knew that we were going to get inundated, and we know the SAFE Act was passed because of what went on in Connecticut, and I think there was a rush to be the first to institute it, but the SAFE Act itself really wasn't thought out totally. They just wanted something on the books. It was passed without a lot of consultation with anybody. So I think it was just rammed down.

How did it impact my office? First of all every time there's an event in this country, and I mean a catastrophic event, our office is inundated with people rushing in to get a pistol permit. Because everybody feels that that's going to solve the issue. We've never had an event here, but anytime something happens around the country people wake up and they want to apply for a pistol permit.

CK: Did your pistol permit department experience any problems with the SAFE Act? What's it like complying with the law now?

PP: Administratively the SAFE Act has not impacted our office, only in the sense that it allowed people 1. To Opt Out so their information was not released to any newspapers or press, so it gave that option, so we were inundated with people coming in to do that. That's fine that was no problem.

Administratively after that we really were not affected until this coming year, I think we're going to be affected very bad. I think we're going to see now, as you know this first round of people which is over 300,000 people were sent letters, some got letters, some didn't get letters, which were sent out by the state police, not the clerks, the law specifically says that this is in the hands of the state police. And the state police are to administer this law basically. But we all know it's going to affect our local offices. 1. In the middle of January when this law comes to fruition all those people that are not recertified technically by the SAFE Act law their license is revoked automatically.

CK: And all firearms will be seized.

PP: All pistol permits. If you have a pistol permit and you don't recertify, your permit is revoked according to the SAFE Act.

CK: Now one thing I've learned is that you would assume that if somebody's permit is going to be revoked, that they're entitled to a hearing.

PP: Correct. But the SAFE Act doesn't tell you that. It just says that the licensing officer, which is not the clerk, it's the judge, shall order that the guns be turned in, etc. What's going to have to happen, let me back up for a minute. Four years ago I was president of the State Association of County Clerks. I am now co-chair of our SAFE Act Committee. And what we've been doing because we know this is coming down the pike. We have been meeting with Judge Coccoma, the head judge for all the courts outside of New York City. We've been meeting with him so that

they can set up certain protocols so they know what to follow after January 18th. Now, this has been dumped in their lap. This as it was dumped in the state police's lap. And the gist of the law is not hurting the illegal gun owners, it's hurting the legal gun owners, and they're not the problem.

So we met with the head judge and his staff along with the state police and so forth and they're trying to set up a protocol, what they'll probably do in my estimation is that the state police is going to provide a list to each county and not all at once but over time the judge or the licensing officer is going to be calling in these licensing people for a hearing. And basically, technically, the license is already revoked, but most likely they'll notify them, especially at the beginning, "Your license is revoked, just come recertify and you're going to be okay." But we don't know yet, we don't know how they're going to handle it, the state police.

And then it's going to come down to who's going to enforce it? The state police don't have the staff to enforce it. Then now it's going to fall on the local law enforcement, whether they're public officers or sheriffs, or town police, they're the ones who are going to have to go out when the judge orders those guns to be turned over, they're the ones that are going to have to go out and find these people. So it's a big burden on the local government, my office, local law enforcement and definitely the justice system because they know they're going to follow the law but there's no way that they would have the staff, or the amount of licensing officers available to enact this law all at once. There's no way to do it. There's only two things in my opinion that are a benefit in this law.

One is the mental health check. The mental health check has been working. All clerk's offices get notified if a person needs medical attention or mental health attention and that psychiatrist or so forth deems that person harmful to themselves, we get notified, we then inform the licensing officer upstairs in the courthouse and they send down a request for that individual to come in for a hearing. That's a good part of the law. Most of the incidents that have taken place have been involved with people who have a mental disorder. So that's a good thing.

The second part of the law is the recertification. Our records, other than New York City, and Westchester County, Nassau, and Suffolk, our records are obsolete. Being that we never had a recertification period, meaning every 5 years or every 4 years or every 3 years, we have records that date back to the early 1900s and probably a lot of those people have passed on or have moved away and never updated their records. A lot of times people move and they don't update their records, people move out of state, so technically after 30 days their license is revoked. There's no enforcement agency to follow up on that. So that's why our records are so obsolete. The recertification will help. I don't know if the way that it was enacted is going to help, probably each county should have did their own thing. When I was president of the Association, I met with the governor's office and met with the state police and mental health agencies. And they sent out this plan on how they're going to handle it. It's changed numerous times. But the only way this system is going to work, is they have to push out a software or hardware system out to each clerk's office or sheriff's office, whoever does it, and have one unified system. And that's the only way this system is going to work, because now you have 62 counties and you probably have 62 different computer or software systems. The state police is not hooked into ours, and we're not hooked into theirs. So it hasn't been a very good set up the way it is.

CK: What about the Opt Out provision as a possible positive aspect of the law, to protect the privacy of pistol permit holders?

PP: I'm all for that. Back two or three years ago, four years ago give or take, we got a request from one of the newspapers to release the information of names and addresses. The law allowed it. I and Westchester County Clerk were one of the ones that released the list. We caught a lot of hell for it. And thinking back, I did a misjustice to a lot of people. One, the legal pistol owners. And two, there were people on there, battered women, or people that might have orders of protections against people, that now, not in every case, but now could release their home address, where they live, and they could be found.

Now I said to you that our system is not totally up to date, but there are a lot of addresses that are correct, and I put a lot of people in harms way. I got a second request after the Opt Out provision was passed, and I refused it. And we went to court, and we came up a happy compromise, and it was settled in court, so I didn't have to release it.

So the Opt Out is good, you'll find that some people want to be opted out, and there's some people that don't care. Let them know that I have a gun in my house. We never released the guns that they had, we only released their address, but now that's kind of obsolete, we give them the opt out form automatically.

CK: How much notice were you given before implementation was required, of the SAFE Act?

PP: It was a matter of days. The SAFE Act was passed and within a week, or within a couple months, it was enacted, but it really didn't affect our office right away. The only part that affected our office was the Opt Out component of it, which was fine, people came in and we took care of them. And second was the mental health check. And a lot of those procedures and protocols were not set up yet, so we had a rush to set up a protocol in order to take care of these people who were coming in to Opt Out, and also to set up a protocol how we were going to handle these notices coming down from the state police that the individuals had a mental health issue. So it was a little trying, but we did it.

CK: What was it like in Rockland County at the time? Did any political protests or rallies occur?

PP: No. Not as much as upstate New York. Upstate New York was a lot more vocal. Because I think you had a lot more gun owners, you have less of a population, but you have a lot more gun owners. And a little more pro-Amendment to have a gun. Down here we're about 35 miles north of New York City. So, we're a suburb, so, there's a different opinion on gun ownership. And we are so close to Newtown Connecticut, we're only probably about 45 minutes, it affected a lot of people around here. I think they thought of it as a good thing, but they really, nobody really knew much about the law when it was enacted.

CK: How did your constituency react? What kind of pressures, if any, did you have? Did you receive phone calls about the issue?

PP: We received a lot of calls from the gun clubs. We have about two or three gun clubs in the county here. And mainly, the biggest fear was that their guns were going to be taken away, right away. They automatically thought, here they are a legal gun owner, with a license, and they were afraid that the SAFE Act was going to take all their guns away and they were going to lose their license. We had a lot of working with them to convince them “you’re still a gun owner, its not going to be taken away, and lets take it one day at a time”.

Was there a massive overflow? No, I’m not going to say there was, I think people had concerns, but it mostly came from the different gun organizations, the sportsman clubs and stuff like that. Long guns are not covered by pistol permits, people were worried about the automatic guns, how many clips you can have, stuff like that. I’m not an expert on guns, but that I think people had a lot of questions about that. And they were concerned that their shotguns and stuff like that were going to be taken away, but that wasn’t the case.

CK: In regard to the SAFE Act, what if anything, in your opinion, should have been done differently? And what can we learn from this?

PP: Well, I think that there should have been more conversation. Let me preface, I’m not a person that talks something to death, I talk a lot, but I don’t talk things to death. I believe in rooting out the problem, come up with a solution, and enact it. The SAFE Act was enacted, but it wasn’t thought out. It did not take into account how many different government agencies it was going to affect over the long run. And the costs involved of administering the SAFE Act.

CK: And it being an unfunded mandate...

PP: Yes, it’s an unfunded mandate. And all that would have to make some kind of revision in their software system to accommodate the Opt Out, to accommodate the recertification and the expiration dates, and there’s been some clerks that have stand forth and said “look, we’re not doing anything”. And really the law doesn’t tell them we have to do anything. We’re doing it as a public service to accommodate our pistol license holders. We don’t want the system to be so boggled down that they get frustrated and then who do they come back to? They’re not going to come back to the governor. They’re not going to come back to the state police. They’re going to come back to us, because we’re on the front line.

So what could have been done differently? I think there should have been more communication, the process should have been thought out better, I think it should have been one unified system rolled out through the whole county, so I think that if that was done, and if the process was thought out a little bit better, I think it would have been a better system, a better law, and I think it would have accomplished what it wanted to accomplish.

I was in a room just three months ago speaking to a sportsman club. There was about 200 people in the room, and I asked them, “raise your hand if you got your license prior to 2013, if you got a letter from the state police”. Probably less than half raised their hand. They didn’t get a letter. Because they either moved, even though the state police tried to update their records, they never received a letter. So now we’re telling these people “go on the state police website, recertify, and or come into our office, or go onto our website and download the form, and fill it out and send it

in”.

So, we as clerks, and I’m speaking on behalf of probably all the clerks, we’re very constituent-oriented. And that’s our job, to help the public, to make sure they get through the process with ease as much as they can. That’s basically it. It was done haphazardly, it was a knee-jerk reaction the way they passed it, I think everybody thought “hey, this is a great thing”, but like a lot of things Albany does they don’t think out the end result.

It’s not going to stop mass shootings. If a person has a mental health issue, or has a rage about something, they’re going to find a gun. And if they’re not a pistol holder, they’re going to find a gun, they’re going to get an illegal gun on the street. And how do you stop that? I don’t know what the answer to that is. Law enforcement does a very good job in trying to obtain illegal guns, but there’s just so many out there, it’s so massive.

CK: Do you think a possible constitutional convention will affect the SAFE Act?

PP: No. I don’t even think it’ll be visited to be honest with you. The SAFE Act has to be dealt with administratively and I think that administratively somebody has to, a light bulb has to go off in Albany and say, “you know what, we did something wrong here, we have to amend the law”. And really that’s what has to happen. The law has to be amended to accommodate certain problems that are going to probably arise in the future.

CK: So sir I do have one last question and its about your position as a county clerk, one thing I think is interesting about the county clerk position is that you’re both an elected official with your own independent constituency and a public administrator, and obviously the state-county relationship is unitary where Albany passes laws and the counties have to implement them and follow. And so, I was just wondering what that balance is like for you? In a lot of other western democracies these positions are appointed positions, but you have your own independent constituency that you represent, so what is that balance like to have your independent constituency, to be an elected official, but then sometimes you have implement these controversial laws that your constituency might be opposed to?

PP: I have a high regard for the voter. I think, it comes back to communication, and I’m very good at making sure people know ahead of time what’s happening. And I try to be proactive about different issues that come out of Albany that’s going to affect them that would run through my office.

And its just like, a little thing, we had an EZ Pass office down here. And they had a new bridge being built, it’s going to have no tollbooths, so it’s only EZ Pass, so they initiate that, and they close the office a month later. So now people are all up arms that they cant get an EZ Pass without traveling into the City. So, I worked with, and I wasn’t successful, I have to say that, I worked with our state senator and our state assemblyman to try to get an office, not another office opened, to get those services brought into my office.

I’ll be the EZ Pass office, why not? I already have an office set up with all the computers and so forth. Give me the software and I’ll run your EZ Pass operation. And I’ll even do it for nothing,

because I already had the staff, what's one more component? Well it turns out at the end of the day, and we all got educated, even the state senator and assemblyman, EZ Pass is a third party product. It's not owned by the state. And when I was trying to get it, it was in the process of being bid out to another private organization or entity. So I wasn't successful in getting the office in my office. I do sell EZ Passes, because they are available for us to get and to sell them, so we do sell them, and I do get a lot of people to come in.

But you know when I feel there's been an injustice done to my constituents, now my constituent is the mom and pop, the attorneys in the county, banks in the county, law enforcement, a little bit of each area, if I feel there's been an injustice I immediately go to my local state representatives and sit down with them and say, "Hey, this is not right. This is going to affect our constituents and you need to go back to Albany and either amend the law you did or find some kind of a way to come up with a home rule that's not going to affect our constituents".

So it is a collaboration and a partnership with our state representatives. And the county clerks are very powerful, we have a very good organization, we have an association that's united and when we go to Albany to deal with a particular problem, our legislators listen because they know that we're representing their constituents in each county and they know odds are the county clerks are very popular individuals in that county, because we're very nonpartisan, we take care of just about everybody and anybody, and they know they can come to us, so county clerks do hold a certain amount of power, that they do they flex their muscles once in awhile in the State Assembly and Senate, as well as the Governor's Office. They know they have to deal with our association, they back off on a lot of things.

Interview with Niagara County Clerk Joseph Jastrzemski and Deputy County Clerk Wendy Roberson – 9/20/2017

CK: Were you in this office when the SAFE Act was passed in 2013?

WR: I was but Mr. Jastrzemski was not.

CK: What was it like for you when the SAFE Act was passed?

WR: It was a nightmare. It was a very difficult time for our office. We were stretched beyond our capacity to serve the public. The lines of angry pistol permit holders, some of who'd had their pistol permit for 75 years, were up in arms and angry and they needed their voice to be heard. And at that time the county clerk and myself were here, and people came in and sat down and there was little to nothing we could do about the law. Our organization, the New York State Association of County Clerks, had vehemently opposed the law, voiced opinion, had no idea that it was going to pass essentially under the cloak of darkness.

CK: That's one thing I've learned, it was passed so suddenly.

WR: Yes. We knew that there had been discussion about it, but certainly there was no...

CK: Consultation?

WR: Right, nothing about how will this will impact your offices. We had nothing to say about it.

CK: How did your constituency react in Niagara County? What kind of pressures, if any, did you have, and where did they come from? Did you receive phone calls about the issue? Were there any political protests or rallies?

JJ: Still continue to be. It's still a very hot topic. And a very passionate issue amongst the gun community.

WR: This is a strong 2nd amendment county, and as early as last week we spoke with the SCOPE organization and those feelings have not diminished at all. They might not be as frequently here asking the legislature to do something about it, they kind of get the story now that the Niagara County Legislature has passed numerous resolutions in opposition of the NY SAFE Act. The New York State Association of County Clerks has passed several, but their voices are still pretty strong.

JJ: Even as of last night, I believe, the county legislature passed a resolution in support of Congressman Collin's initiative, which would ultimately, if that passed at the congressional level, at the federal level, would do away with the SAFE Act.

CK: It would overturn the SAFE Act, and the only gun legislation remaining in New York State would be federal gun laws. And it would additionally prevent any future attempt to create gun control laws in New York State.

How did the SAFE Act affect your office administratively? And how did you handle it?

WR: When you have a job that you go to everyday and you're responsible for a number of departments, not just the County Clerk's Office, our office is also responsible for the Historian's Office, the Veterans Service Administration, all the DMVs that operate here, the Inactive Records Management Program for over 40 departments, so it isn't just about the recording office, and or the pistol permit office. The pistol permit office became everything. I could get no other work done. At that time the county clerk and I focused almost 100% on the people that were lined up out the door to talk to us, and sit in front of us. I have been here now 22 years. I've never seen anything like it.

CK: Did you have to change any staffing procedures or use any overtime or anything like that?

WR: Yes. We ultimately made an entire change in our staffing in the pistol permit office. We increased our staff in the pistol permit office and made some changes in titles. We abolished some titles and created some others, just as a way to kind of help us deal with the situation. This desk had at one time over 20,000 Opt Out forms laid across the desk that needed to be alphabetized and filed into peoples files. It's still not done. That is something that's probably one of the last things we'll ever complete.

JJ: And to take that one step farther now with the recertification, what we're dealing with now is

the state police have been a box on there where you check to Opt Out of FOIL requests. And they would like us, originally they said that, if they've checked that it's just for the state police to use, now they're saying they'd like to marry that with our pistol permit holders in our county. We just don't have the staff to be able to do that.

WR: They've been sending us, every month or so, a big stack of spreadsheets that include people who have Opted Out along with their recertification, and most of them have already Opted Out. It's just another...

JJ: Nightmare.

WR: Nightmare, yeah.

CK: The clerks I've interviewed have talked about the recertification process because it seems that there's a lot of unknown right now. The law says that unless you recertify your pistol permit by January of 2018 that your pistol permit will be revoked and all firearms will be seized. But there seems to be consensus or answer to who's going to responsible for what, how is this going to be accomplished. You would assume that if someone has their pistol permit revoked that they would be entitled to a hearing.

JJ: Due process.

CK: And the judiciary is not prepared with what could be hundreds and hundreds of hearings. And then there's the aspect where all firearms will be seized, that means that shotguns and things that don't have to be registered, are the police really going to be searching around peoples homes for these things? And who's going to be responsible for that? I've talked to clerks who have said it seems that the state police are going to be responsible for that, but they think it's going to fall into the lap of local law enforcement.

WR: Local law enforcement is having difficulty even keeping up with the background checks.

JJ: The background checks of our new people that are applying for new licenses, we have over 33,000 pistol permit holders in Niagara County, and it continues to grow. And everything that you just said, we're experiencing the exact same thing. There are so many unanswered questions. We meet with the licensing judge on a regular basis, and they don't have any direction on how they are to go. And then there's a consensus out there that right at the last witching hour these pistol permit holders are either going to send in their recertification via paper, versus online, so at what point are the state police going to be able to verify yes indeed they recertify.

CK: I talked to another clerk who said is that their understanding is that the state police is going to provide them with a list of those who did recertify and then they're go back through their records, most of which are not in their computers.

WR: We're not going to do that.

JJ: We don't have the staff to do that.

CK: Are any of your records digitized? One of the clerks said it would be a massive undertaking to go through all these files, most of which are in books. Some of the records in some counties are in index card systems.

WR: A good portion of ours are digitized. And when somebody comes in to do an amendment we digitize their records, we pull them from our archives and do it that way. It was a day forward thing with digitizing and then as it happens. But what happened with the SAFE Act, there was just no time.

One thing that I want to go back to that I think is important is when the SAFE Act was first enacted something happened at that time. The two groups of government that the state police and the state needed to be speaking to was the judiciary and the county clerks. And they did not speak to either. And those are the two groups that carry 95% of the process for someone to receive their pistol permit. We knew a little bit more I think than the judiciary did, that's the sense that I got from the judge and at that time, the man that served as his law clerk. Now the same thing is happening again with recertification, they aren't speaking to those two groups. So that means that our taxpayers, our constituents, our pistol permit holders are underserved because of bad actions.

CK: You may have touched on this earlier, but how much notice were you given before implementation was required?

WR: I went back through some emails, I could see in 2012 there was some discussion back and forth amongst the county clerks, some concerns that this was a possibility. There were some gun groups who had their ear to the ground. But really we couldn't get any answers. I remember at one point Lieutenant Sherman who used to head up the Pistol Permit Division of the New York State Police came to speak to kind of an angry group of county clerks, and we thought he was going to be there to talk about the SAFE Act, and some of the ways that they had planned on implementing the SAFE Act, and he didn't. He talked about the history of pistol permits with the New York State Police. That said volumes to me about how much they planned to share. I don't think that it was they held the information in, it's only a personal opinion, I think they really didn't know. I think the state police were probably just as "oh my God, what do we do with this thing? It's the law, now we have to implement it". They did the state police over 30 million dollars to do this, and we got nothing. Nothing. Not a dime. And it truly did impact us. It's been difficult.

CK: Before I move on to the next question, is there anything else you'd like to add about the SAFE Act's implementation and administrative issues?

JJ: It continues to be a administrative nightmare with the recertification part of it, how we're going to marry up, who's been recertified, moving forward one of the things we've taken on is to put a little date on there when someone has to recertify again, if you recertified here in 2017, by the end of 2022 they're going to have to recertify again.

WR: Because we've been told that the state police will not notify them. Mr. Jastrzemski had this

idea to put this stamp on their license so that, because you know, you don't think about it. The New York State driver's license, they send you a reminder in the mail or they send you a text, its time to renew, and they're not doing that with your pistol permits.

JJ: And there are people that don't realize that if you get your pistol permit in 2013 that in 2018 you're going to be required to recertify because your 5 years are up.

CK: And what I've learned is that there are so many reasons why someone might not recertify. They might have moved, they might just be opposed to the law on principle.

JJ: What we've been told is they've sent the letters out to the constituents that need to be recertified and they took that off the DMV list. So if you had a change of address you didn't get that notification. We still know of people that have come into our office that have not been notified, that haven't had a change of address. So we're not exactly sure what they did. It's a mess.

CK: What, if anything, should have been done differently in your opinion? And what can we learn from this?

WR: That units of government need to speak with one another when it impacts the entire population. It isn't just about the pistol permit holder, because ultimately it impacted every single taxpayer in the state of New York. I really believe that had the state police sat down with the county clerks and understood what it is what that we did, we understood what they did, and our licensing officer and their clerks understood. We work together pretty well but these three areas were not speaking to one another with such enormous legislation with such impact that the taxpayers were the losers. I think speaking to one another, and we all have organizations, our professional organizations, the New York State Association of County Clerks, the New York State Police, their professional organizations. We were talking to the state police, but not getting any answers. And again it goes back to me saying I don't think they really had the answers. I think they were overwhelmed themselves.

It's communication, like anything. It's about communication. We may not like it, but if this is the law, and we have to do it, we may not agree with it, but lets find the best way to make it happen.

CK: Do you think a possible constitutional convention would affect the SAFE Act?

JJ: That's really hard to say. That's a difficult one to answer for sure. It's hard to say even if we'll have another constitutional convention. There are so many pros and cons in regards to that.

WR: If people aren't talking and communicating, still, doesn't matter. There's still going to be issues.

JJ: We can just say that it was not, I think Wendy touched on it, it was not a well thought out law. It was rushed through in the middle of the night. There were so many unanswered questions and continue to be five years later. And that's the best way to sum it up. And people that are living the nightmare the most are the licensing officers and the administration of the county

clerk's office.

WR: It's pretty darn sad when you have a World War II veteran, who fought for this nation, sitting in front of you, he's had his pistol permit for 75 years, and somebody's telling him that now he's not good enough to continue, he's a law abiding citizen, that he's got to follow some other law, and that he has to come in, and that he has to recertify when it says it's good for the rest of his life.

CK: Prior to the SAFE Act, pistol permits were revoked for criminal offenses, domestic violence, a felony. Now they're going to be revoked for an administrative reason.

WR: It's sad.

CK: I do have one last question and its about your position as a county clerk, one thing I think is interesting about the county clerk position is that you're both an elected official, with your own independent constituency, and a public administrator, and because the state-county relationship is unitary where Albany passes laws and the counties have to implement them and follow. What is that balance is like for you? And if you personally disagree with the SAFE Act or any other laws that are passed, how do you handle administering these Acts or pieces of legislation?

JJ: We need to do it by law. We don't really have a choice. We might not like it, we might speak out against it, for change, but by law we have to administer it as such.

WR: There are a lot of laws that we probably don't agree with. There's foreclosure laws, and administrative things in the recording office, and things with the veteran's service agency, and records management, there's always something that you're going "Why? This is just a roadblock to progress and it's creating more work". But that's why, with an association, like the County Clerk's Association, you try to work on legislation to make the changes. But in the meantime, you have to make the best of it, and try as an administrator to figure out, okay here's the law, how are we going to best serve our public with the laws that we have to deal with until we can make changes that are effective.

JJ: We're going to be living that with DMV and Real ID, as we speak, they're creating a third license. It's going to be administratively, the burdens going to fall on the local taxpayers to get this job done. We don't like it, but as Wendy said, we have to serve it.

CK: Is there anything else you would like to add about any of my previous questions or anything about this topic?

JJ: To sum it up, it was a poorly thought out law, and it continues to be an administrative nightmare for the county clerk's office. I should say for the licensing offices, because it does not fall under all county clerks.

CK: Right, with the sheriff in some counties.

WR: The differences between counties is amazing. And the interpretation of the laws by the

licensing officers is amazing as well. I was surprised to learn that some counties have more than one licensing officer. Some are of them are much smaller counties and they have five or six licensing officers, we have one licensing officer, so there's a lot of difference with the SAFE Act, but it has not been easy.

Interview with Wyoming County Clerk Rhonda Pierce – 9/21/2017

CK: When were you elected as county clerk of Wyoming County?

RP: 2009.

CK: What was it like for you when the SAFE Act was passed?

RP: Our office got very, very busy and it really hasn't been the same since then. Just with the different things that were passed. We just took everything day by day, little by little, and tried to make it work for us and the pistol permit holders.

CK: How did the SAFE Act affect your office administratively?

RP: We actually had had an employee retire the year before, so I actually went to the board of supervisors to try to get a part time person to help us. And we were able to bring that person back that actually had previously worked in the pistol permit program so it helped a lot because they were familiar with it, and brought her back part time, I think we might have had her for maybe a year and a half or two years, to help us as far as keeping up with the changes with the SAFE Act.

CK: So there was an increase in the volume of applicants in your pistol permit department?

RP: Definitely, yes.

CK: Is your office experiencing any problems with the SAFE Act? What's its like complying with this law now?

RP: We still have to try to explain to the permit holders some of the different types of changes that were made. As far as right now, a lot of it has to do with the recertification that's coming up, people come in a lot about having to fill out the forms. So we usually just direct them to the website or we actually have copies of the recertification form that we give to people, but we don't take them, we just tell them to fill them out and mail them to the address, I think it's on the bottom of the form.

Right now I think mostly its just, anything SAFE Act related, its pretty much the recertification, if you want to say the hot topic at this point.

CK: How did your constituency react? What was it like in Wyoming County at the time? What kind of pressures, if any, did you or do you have, where are they coming from? Did any political protests or rallies occur?

RP: I think there might have been a couple get-togethers. They definitely were not political protests. You might have considered them rallies. That was in the beginning. And then we do have the local SCOPE chapters that are here, they're always coming up with different things that they want to talk about or discuss. I actually had went to a couple of SCOPE meetings. One was right in the beginning. And then this January, when this recertification process really started to start, I did go and try to explain to them how I understood they would have to recertify. We have people coming in filling out for amendments and they'll have to wait a little bit, we hear people chattering back and forth about different things.

CK: Do you think a possible constitutional convention will affect the SAFE Act?

RP: I don't think so. I think the SAFE Act is in law and I feel that it's probably not going to change.

CK: I do have one last question and its about your position as a county clerk, one thing I think is interesting about the county clerk position is that you're both an elected official, with your own independent constituency, and a public administrator, and because the state-county relationship is unitary where Albany passes laws and the counties have to implement them and follow. Sometimes you have to implement these controversial laws that your constituency might be opposed to. What is that balance is like for you?

RP: A law is a law, and if you have to follow it, you have to follow it. When the changes with the state and the SAFE Act came down we try to help the residents as much as we can and get as much information out there as we can, and whether we agree with it or disagree with it, its still a law, and we still have to follow the law. And we are just trying to get information out to everyone as accurately and efficient as we possibly can.

Interview with Hamilton County Clerk Jane S. Zarecki – 9/28/2017

CK: What was it like for you when the SAFE Act was passed?

JZ: There was a lot of chatter but no one knew what or how it would be affecting us - or would it affect us. People wondered what they had to do and since this had now passed, what was next. It seemed there were no clear cut answers to the questions my constituents were asking. There was no information, no communication and the State Police were also in the dark. We as County Clerks, who handle much of the associated paperwork, were never consulted for ideas or asked for input on implementation or how would effect our work flow. It was more like, here it is - deal with it. People asked why should they have to transit their permit information when it was already on record. Why do they have to limit the number of rounds in a clip and if I was allowed to keep my weapon I served my country with, even if it is now considered an assault weapon, why should I have to register it - I won't. Some people flat out told me they would not comply.

CK: How did the SAFE Act affect your office administratively?

JZ: Once the details started surfacing, we fielded many questions both in the office and via phone. Trying to obtain accurate and reliable information was lacking and we were at a loss to

give reliable answers.

CK: What is it like complying with this law now?

JZ: We have seen a dramatic increase in pistol transactions, as we did before passage. People are scared and nervous and wonder what's next.

CK: How did you handle the implementation of the SAFE Act?

JZ: Day by day, question by question.

CK: How did your constituency react? What kind of pressures, if any, do you have and where are they coming from?

JZ: Mad as hell! This is a rural area, hunting, fishing & trapping is a way of life. All young boys grew up with rifles in their households and it was a rite of passage to be gifted the rifle they hunted with as a boy from their Dad. Females too - we learned to respect guns at an early age. The 2nd amendment played a large part of their (our) lives. Many people stated they would not comply with the recertification process. Many have yet to receive the letter from the NYSP asking for information about their permit. (I, for one, who have had my license since 11/1982, never received a letter. There must be thousands of people still unaware.)

CK: Was there an increase in the volume of applicants in the pistol permit department? Did any political protests or rallies occur?

JZ: Huge increase in applications. No rallies, no protests unless it was around the dinner tables or morning coffee klatches. Lots of talk...lots of anger and disgust.

CK: If your office is experiencing any problems with the SAFE Act, have they resolved themselves or are they still a problem?

JZ: I wouldn't consider it a problem, but people are still very unhappy, continue to gripe about it and still wonder what's to come. In this area it seems everyone has a gun. Pistol applications are still up with the feeling that in a few years you won't be able to obtain a pistol license.

CK: What, if anything, should have been done differently?

JZ: Better planning, consult those who deal with the process daily, immediate and accurate dissemination of information at the onset and periodic updates as issues evolve and become resolved. A clear cut path of our direct responsibilities.

CK: What can we learn from this?

JZ: (Nothing ever gets accomplished in the wee hours of the morning.)
It was poorly thought out - better planning and implementation.

CK: If you personally disagree with the SAFE Act or any other laws that are passed, how do you handle administering these Acts or pieces of legislation?

JZ: Whether I agree or not does not matter, I still have to abide by the law as a constitutional officer.

Interview with Oswego County Clerk Michael Backus – 10/2/2017

CK: When were you elected as county clerk?

MB: I was elected in 2012. I was re-elected in 2016.

CK: What was it like for you when the SAFE Act was passed?

MB: That was during my first few months in office. It was something that was rumored to be happening. I had worked in the state legislature prior to becoming county clerk, so I had heard the rumblings about it. Then very quickly, I believe it was in February, we got a real good idea this was coming. I forgot the exact month it was passed and put into law, I handle pistol permits in my office and it's a main core function of my department, we immediately tried to get a hold of the language, try to understand what the impact was going to be on us, and very quickly we realized that there was going to be a significant change to our procedures.

CK: How did the SAFE Act affect your office administratively?

MB: What we had to do, we had to get our arms around the requirements. Not everything in the SAFE Act had a technical role in my office; it's just the level of impact in terms of people asking questions, people not sure. We are the point of contact for anyone that has a pistol permit in Oswego County. So anytime anything changes, we're going to get those questions. The phone calls, the questions about how to process the recertification component, that's something we've been doing for five years, all of that was really the impact.

CK: Was there an increase in the volume of pistol permit applicants in your pistol permit department?

MB: Significantly, yes. I'm not sure of exact percentage, I can get back to you on that, but there was a significant increase right after the SAFE Act. There's also, to be fair, there's always a significant increase in applications right around presidential elections. So obviously 2012 and 2016 were both presidential years, we did see significant increases, but in 2013 and 2014 we did see if we reflect back on that from two years prior, a significant increase.

CK: Back in 2013 how did your constituency react? What kind of pressures, if any, did you have or do you have currently? Where are they coming from? Were there any political protests or rallies in Oswego County?

MB: There were a few rallies from a number of 2nd Amendment groups in and around Oswego County. And they organized several protest and events. I attended a few of those. I also spoke at

a number of gun clubs, hunting and fishing clubs, just to talk a little about what the SAFE Act was, how the law read, and answer any questions those folks may have had. I certainly went to a lot of those meetings in 2013 and 2014.

CK: Due to the increase in volume in applicants in your office, did you have to make any changes in any staffing procedures or use any overtime?

MB: Yes. Absolutely, we tried to stay away from overtime. I'm blessed to have a phenomenal staff. We did have to allocate two employees from other work just because of the SAFE Act. We had to bring them away from their day-to-day duties to help us process new applicants, answer the telephone, and troubleshoot questions, especially in 2013 and 2014. We really had to have those folks step up.

CK: Did your, or is your office experiencing any problems with the SAFE Act? What is it like complying with this law now?

MB: The challenge we have right now...it's interesting because I'm on my way to a county clerk's conference, and I expect to talk about the SAFE Act a little bit today, the issue we have now is the five-year recertification provision. Folks have 5 years to recertify their pistol permit. However, it's only been in the last year really that any communication has come from the state police to help these people recertify. There is a website the state police put together, it's fairly straightforward and easy to use, but people have only had access to it for, I don't even think a year yet, a little more than 6 months. I just got our numbers from the state police last week, that roughly, I will never publicize the total number of pistol permits in Oswego County, but let's just say that there's 15,000 of a county of 100,000, if there's 15,000 pistol permits let's just say 5,000 aren't quite active, maybe some of those are people who are deceased, so take them out, say there's 10,000 active permits, of those 10,000 active permits less than 2,900 have actually done the recertification as of September 11, 2017, according to the state police, less than 2,900 have done the recertification process. So that tells me that almost 7,000 people or so have still not recertified. So that's not a provision my office handles, but it's obviously a concern I have, because we're going to feel the brunt when these people, if they don't recertify, according to the SAFE Act, those pistol permits are then revoked, that's how the language reads. If that happens in 2018, my office is going to feel the brunt of that.

CK: Before I move on to the next question is there anything else you would like to add about the SAFE Act in an administrative context?

MB: It's a unique thing because not every county clerk handles pistol permits. Each county does it very differently. One of the things we asked the state police very early on is if they could help us share commonalities between each county. Significantly we've had a lack of communication. And that's what my fear is come February 1st 2018 when this recertification provision kicks in. I think a lot of county court judges, who are licensing officers, and county clerks are going to be put in a very difficult position when people realize that they haven't recertified, and according to the law, section 400, those pistol permits shall be revoked. That's one of the questions I'm asking, who does that revocation? Because if that is up to each individual licensing officer in each individual county that's 62 counties that have very differing degrees of interpretational law.

And that puts us all in a very dangerous place.

CK: What if anything should have been done differently?

MB: I would have liked to have seen a lot more communication on the legislative process, and that's from the governor's office all the way down to the state assembly. I understand the intent. Obviously Sandy Hook had happened, Governor Cuomo wanted to make this a priority, and he and a number of others pushed this piece of legislation through the state legislature with a message of necessity, and it was very late at night, I remember staying up watching it all in my living room as it went through the state legislature. I really wish that had not occurred. We could've had a very a reasonable conversation. I think there are a number of things that we've identified that could be better, that the pistol permit process in New York State, I think there's standardization that could happen, I think there's some mental health provisions that are good, but all of those provisions could have been incorporated into a better piece of legislation that took into account the costs for my office. There is actually a dollar amount that costs my office in this regard as well. My taxpayers are paying for this in the same light. We get no reimbursement from the state of New York for that work.

So all of those things, and probably many more, it would've been a much more healthy legislative conversation if more parties had been included, if this process had been a little bit more open and transparent.

CK: What do you think we can learn from this?

MB: I think we can learn that, I think we're going to learn, sadly, if nothing changes, how big a challenge it's going to be for municipalities such as mine, we have a very strong tradition of gun ownership here, this is rural county that has a very good 2nd amendment tradition, in 2018 if nothing changes and a good number of people do not recertify their pistol permits, our county court judge has to issue revocations of those pistol permits as per the law, you're going to put an awful lot of people in a bad spot. I really think the lesson we're going to learn out of that is, sadly, that the state legislation needs to be crafted with the locals in mind at all times. I think that is hopefully a piece of the state legislature acts upon, because I've talked to my local representatives, I believe there needs to be legislation crafted in January asking for this to be amended. I am very concerned that if my numbers hold true, and it looks like every other county is very similar to ours, we're going to have an awful lot of legal, law-abiding citizens are going to have their pistol permits revoked under this law because they did not recertify. They were not given the full 5 years, there's a lot of reasons why, I think legislatively can be backpedaled a little bit, and we can take a deep breath, let's look at the intent of the law, what are we trying to achieve, and how can we make this better?

CK: Do you think a possible constitutional convention will affect the SAFE Act?

MB: That's hard to say. Anything can happen in a constitutional convention. I would say that it's just as likely that the 2nd amendment and pistol permits could be broadened within a constitutional convention; it could also become more restricted. Anything can happen in a constitutional convention. That's a much more broad question. I can't tell you one way or the

other what would happen.

CK: I do have one last question and its about your position as a county clerk, one thing I think is interesting about the county clerk position is that you're both an elected official, with your own independent constituency, and a public administrator, and because the state-county relationship is unitary where Albany passes laws and the counties have to implement them and follow. Sometimes you have to implement these controversial laws that your constituency might be opposed to. What is that balance is like for you?

MB: That's a great question and thank you for asking it. It's very difficult. And again that's why I think this is going to become a very educational here if nothing changes in 2018. As I said, you're going to be county court judges, county clerks, and let me take it one step further. I'm an elected official, I run for office every 4 years and the voters tell me whether I'm doing a good job every 4 years. But at the end of the day I have a staff in my office, of dedicated professionals, these are good, hardworking people that should get paid much more than they do, and they're going to be on the front lines of this conversation with people who may not have all of the information and might not understand why something they've had for maybe their entire lives are now revoked because of this law. It's those people that my staff and I think about. They're not in Albany. I go to Albany probably six times a year to lobby on behalf of the clerk's association, and talk about the things that we need to do better, and how we can help them do better, and that's part of a public administrator role in that I'm on the front lines, and the kind of information I try to bring to my state legislators. It's that conversation that I hope, in terms of what we can learn, I hope that's what we learn out of this and sadly it might be a very difficult and hard lesson.

Interview with Schuyler County Clerk Linda M. Compton – 10/3/2017

CK: When were you elected as county clerk?

LC: This is my 20th year as county clerk.

CK: What was it like for you when the SAFE Act was passed?

LC: It was just an extreme amount of work as I'm sure it was in every office because people were going crazy that they'll never be able to get a permit. So our workload increased I can't even tell you how much, between the extra applications and number of questions and people not understanding just what that means to them, both permit holders and non-permit holders.

CK: So there was an increase in the amount of pistol permit applications in your pistol permit department?

LC: Tremendously.

CK: How did you handle that?

LC: Some of our work had to be put aside to answer questions for people to came in. That had to

be caught up when it was possible.

CK: Did you have to make any changes in any staffing procedures or use any overtime?

LC: Some overtime, yes. And the county doesn't really pay overtime so it just...the people who were union employees got comp time credited to take off when they can. My deputy and I had to work extra hours to try to keep things caught up.

CK: How much notice were you given before implementation was required?

LC: Next to none.

CK: Is there anything else you would like to add about how the SAFE Act affected your office administratively? And what's it like complying with this law now? Did your office or is your office currently experiencing any problems with the SAFE Act?

LC: The volume of new applications has certainly slowed down some, but the build up is still not, the backlog is still not caught up because it's affected not just our office but the sheriff's department to some degree I'm sure, and because they do part of the background check on this, and then the judge who reviews and is the licensing officer, goes over and signs these applications, we've still got, which we never had a backlog before. And we've still got months of backlog. It was at one point in time taking about, probably 3-4 months to get the whole process done once they, the applicant, supplied everything they needed, it was about 3-4 months turnaround that's gotten to be a year plus. So we're still way behind on that.

As far as problems we're experiencing, I don't think we've actually even begin to know what problems we're going to experience. I think that a lot of that is going to depend on how the judge and law enforcement handles it when people, come the first of the year, have not responded to this, or recertified. And that's partly to do with the way this was all put in place. There was absolutely no plan on any step of the process.

CK: How has the recertification process affected your office?

LC: A lot of people still don't really quite understand because we also went to the plastic cards, rather than the paper, and people will come in wanting to get the plastic card thinking that's the recertification. So we have to take the time to explain to them that that's a completely different thing, and that they need to make sure they do the recertification and it's hard to believe the volume of people that will come in and have, and they know about it, but they've never gotten a letter. So they don't know what they're supposed to do. The recertification letter from the state police. And they never got notified for whatever reason. So we've had to make copies of all the forms and instructions and hand them out to people who haven't heard about it, or are confused the two plastic cards that we're not issuing with the recertification, or know about it but have never gotten notified.

CK: Back in 2013, how did your constituency react in Schuylar County? What kind of pressures,

if any, do you currently have or did you have? Were there any political protests and rallies?

LC: There were several people that talked to me; we didn't have any rallies per se here in Schuyler County, but if you're not familiar Schuyler is a very small county. But we did have many people that I've spoken with that have gone to rallies elsewhere from this area. They've gone to big rallies in other places.

CK: Is there anything else you would like to add about how the SAFE Act in an administrative context?

LC: To go back as far as how people reacted, and I'm sure you've heard everywhere, they were very upset. And it ranged everywhere from being extremely angry to we've had several people come in and ask what they needed to do to turn their permit in, that this was the final straw, that they're moving out of New York State.

CK: What, if anything, should have done differently?

LC: For one thing, maybe allotting enough time for discussion before it was kind of passed in the dark of night. And I totally understand why it was done that way. But that wasn't right.

CK: Using a message of necessity.

LC: Right, and I understand why it was done that way because it probably would have never passed had it been done with discussion and people having a chance to put in their points of view, et cetera.

CK: What do you think we can learn from this? Because the controversy is not going away.

LC: No it isn't. I really don't know what the answer to this is. I understand especially in light of the last couple days news, I understand the concern that people have about handguns, but I think I probably feel the same way that most of this country does. It's not me or you that's doing some of these horrific acts. This law is not going to help any of that. I don't know what the answer is, but this certainly has not done anything, it's actually put more legal gun owners out there, which is not a bad thing I guess, as long as they learn how to handle the weapons. The amount of pistol permit applications has gone up probably 4-5 times the normal amount that we would have in one month's time.

CK: Do you think a possible constitutional convention would affect the SAFE Act?

LC: I don't really know if that would do anything to help the SAFE Act. I think it would open a whole lot of other doors that maybe shouldn't be. I don't really know personally that that's the answer.

CK: I do have one last question and its about your position as a county clerk, one thing I think is interesting about the county clerk position is that you're both an elected official, with your own independent constituency, and a public administrator, and because the state-county relationship

is unitary where Albany passes laws and the counties have to implement them and follow. Sometimes you have to implement these controversial laws that your constituency might be opposed to. What is that balance is like for you?

LC: The law is the law, regardless of whether with I agree with it or not. And until that law can be changed, and that's whatever that we may be talking about, until that law can be changed, we have to do our part to comply with that. It's what my job is. It does not stop me from personally speaking out about it, or from doing whatever part I can in getting any law changed. But until that happens, it is our job.

Interview with Allegany County Clerk Robert L. Christman – 10/17/2017

CK: When were you elected as county clerk of Allegany County?

RC: 2004.

CK: So you were in office when the SAFE Act was passed.

RC: That's correct.

CK: What was it like for you when the SAFE Act was passed?

RC: Me personally, I was hurt. I was confused. I thought it was inappropriate. And I thought it was an invasion of the 2nd Amendment.

CK: How did the SAFE Act affect your office administratively?

RC: It made it extremely cumbersome because there was the Opt-Out process, where people had to initiate. My constituents were confused. They felt violated. They felt that they were being forced to have to initiate what they thought they never had to. The bottom line is that it was a very cumbersome process because I didn't have the right staffing, I can't give legal advice, but I have to react to a law that most people felt, at least in this environment, was invalid and incorrect.

CK: How did your constituency react? What kind of pressures, if any, did you have or do you have? Where are they coming from? Did you receive a lot of phone calls about the issue?

RC: Absolutely. Administratively, we had to take a ton of phone calls. And I share this task with the sheriff's office, between me and the sheriff this process was extremely time consuming. And we're trying to alleviate people's fear, but we don't have any input into how the law was implemented, because they made it so that, in reality, the system that had been developed previously wasn't adaptable to what they were trying to do. I can't tell people what assault rifles are. I don't define that. And the definition that they gave was very vague. And there were just a ton of problems.

CK: Back in 2013, what was it like in Allegany County? Were there any political protests or

rallies in response to the SAFE Act?

RC: There was a large contingency of individuals who went to Albany. I was there, along with a lot of the politicals, and a lot of our hunters and our 2nd Amendment supporters. We went to the Albany rally and made sure that the governor heard us.

Now there are groups here too. We've got SCOPE and our local hunting groups and our local organizations like our fish and game organizations. They are very active, and are very organized in defeating and retracting the SAFE Act initiative.

CK: Was there an increase in the volume of applicants in your pistol permit department?

RC: When the Obama Administration and the Cuomo Administrations were making overt threats to the 2nd Amendment we had an onslaught of new applicants. An onslaught. Our system was at capacity for handling the process. They were the best salesmen for the armaments industry. Because when they threaten to take away somebody's rights, people are going to safeguard their rights.

CK: How did you handle the increase of volume in your office, did you have to make any changes in any staffing procedures, or use any overtime, or anything like that in your department?

RC: We just had to change some priorities. Some aspects of the office had to have less attention. We had to utilize that administrative expertise for the pistol permit program. So yes, it changed our priorities. I do a lot of things in this office, we do filings for the Supreme and the County courts, we do the deeds and registrations and passports, and we have the Department of Motor Vehicles, for short periods of time I can reallocate assets to try to alleviate issues. That's how we dealt with it.

CK: How much notice were you given before implementation was required?

RC: I can tell you we didn't get any clear instructions, and still haven't. We've tried to react. We've tried to communicate with the state troopers. We've tried to get the determinations on who are the licensing officers. The answers to all these types of questions have been less than clear, because the law as written is too ambiguous. It's just not a well-written law. There are a lot of ramifications. And instead of having a good law that was done in the daylight, they made a midnight law. It does make Mr. Cuomo look good in front of his progressive people.

CK: Is your office experiencing any administrative issues with the SAFE Act, or did you?

RC: We are trying to apply the law as written; as a matter of fact right now we have the renewal process. We're advising our local constituents on what they have to do based on how we interpret the law. We don't really interpret, but this is what the executive branch has said as to how this law is to be interpreted; we're expressing that to our constituents so they can do their renewals.

CK: The recertification process?

RC: That's correct.

CK: Can you discuss the recertification process a little more and what happens in the event of revocation?

RC: Who's going to revoke it? The only person who can revoke a license is the licensing officer, which would be the local judges within that political subdivision. But if somebody doesn't comply with the recertification...let's say they were not notified, or they could not find the notification, or don't have the internet, or they didn't get the e-mail, you're going to make them an instantaneous felon and confiscate their weapons? And a judge has to initiate that. Are they going to send out a notice to all the people who have not responded?

The problem being is there is only one person who can revoke that license and that's the issuing officer within that political subdivision. If someone was to test this, it could go to a higher court, and the problem with that is it going to be overturned? We don't know. Right now, we're told to make sure that people can find a path to that recertification. If everyone gets it, how do I know? Right now there's been less than 1% of the people who have pistol permits in Allegany County have recertified.

We're almost three months away from the mandatory deadline. This is a flawed law, a flawed process, and I can see it causing a lot of unnecessary litigation to achieve a political game for a potential presidential candidate.

CK: You would assume that in the event of revocation someone would be entitled to a hearing. Is the judiciary prepared for this?

RC: Just think of the costs it's going to be for the state. Who is going to give them the list of all the people who did not recertify? The list comes from the state troopers, now some of the people who didn't recertify might be dead, might have moved, may not have known about it, so somebody is going to have to go out and do a personal service to these folks, that means they're going to have to send out a runner, locate them, notify them, now you're going to notify the local sheriff to go arrest these people immediately? That means you're going to have to get the district attorney to indict them? The whole program is not conducive.

The problem is the law was poorly written and now they don't know how to enforce it. I can't speak for my district attorney and my sheriff but I can tell you that they are extremely positive for the 2nd Amendment, and have absolutely publically stated their opposition to the SAFE Act.

CK: What about the process your pistol permit department would have to perform in the event you receive a list from the state police of permit holders who did or did not recertify? What is the process of pulling those files going to be like for your department?

RC: That will not be done in Allegany County.

The directive from the state troopers will not be enforced, if that's what they are going to attempt to do.

CK: Before I move on to my next question, is there anything else you would like to add about the SAFE Act as far as how it's affected your office administratively?

RC: We've dealt with it, but we disagree with it. It's been cumbersome. There has basically been a lot of confusion and a lot of distrust.

CK: What, if anything, should have been done differently?

RC: There should have been no new initiative for recertification, no re-classification of assault rifles, there could have been a mental health initiative, and if we're going to prevent arms from getting into those with mental health issues, maybe we need to develop a better mental health community. Right now, what they've done, is taken those who are mentally incompetent, and they've thrown all of those people who have pistols and rifles into the same classification and now we have to prove a negative. The bottom line is the only thing they could have done, if they wanted to, and really get down to the issues, is getting individuals help, because anything else is benign, you're going after the wrong group.

CK: Can you discuss the mental health provision and Opt-Out procedure of the SAFE Act a little more?

RC: My records were opted out before the Opt-Out. Most of the pistol permit information was already online, because in 2010-2011 there was a FOIL that went to the state troopers, the state troopers gave out all that information, so everybody knew who had pistols. Now the criminals know who has the pistols. This was a bad program. In my case, if they had come here, they could not have gotten that because I didn't have my pistol permit information in that type of a retrievable method. The Opt-Out did put a marker down from this point forward, people can Opt-Out and not have their records available to the public, so it did make that official.

The mental health provision, the problem with that is, if somebody has a mental health problem, and their names are similar to other people, or somebody taking a drug, I've had people that have already been called up and had to prove that they were competent when they had no issues. It's a slippery slope.

CK: What can we learn from this?

RC: Laws should be made in the sunshine. Laws should be well vetted. That if you're going to make initiatives, it should be bipartisan and we should not overreact to tragedies, because what that tragedy did was label law-abiding citizens in a negative context. It's a bad law that was inappropriately made. The key is to make laws that are well vetted and get all the stakeholders on board, so that you can make something that's truly going to be effective.

CK: Do you think a possible constitutional convention would affect the SAFE Act?

RC: I don't think there will be a constitutional convention. I think the unions and a lot of other organizations fear a lot of change. I don't think it's going to happen.

Inherently if you had a bipartisan state, or a conservative state, I'd say let's go for it. Because I think it could strengthen the 2nd Amendment and the state. But right now, the way this state is set up, I'm pretty sure that the constitutional convention is going to be voted no, and probably for the right reasons.

I think if you look at the population, and where the political control is, I think that if they got into that aspect of it, and got control, I think it could be detrimental.

CK: I do have one last question and its about your position as a county clerk, one thing I think is interesting about the county clerk position is that you're both an elected official, with your own independent constituency, and a public administrator, and because the state-county relationship is unitary where Albany passes laws and the counties have to implement them and follow. Sometimes you have to implement these controversial laws that your constituency might be opposed to. What is that balance is like for you?

RC: Difficult. But there's one thing about it, and I will say this: While I can oppose laws, while I can criticize laws, while I can try to clarify the law, the one thing I have to do is execute the law. That's what I have to do. I will make everybody aware of who initiated it, I will make everybody sure who is responsible for it, but if I have to execute it, I will execute it to the best of my ability.

Interview with Chenango County Deputy County Clerk D. Lukas Brown – 10/20/2017

CK: What was it like for you when the SAFE Act was passed? I know you came into office a year later, but maybe the affects of the law were still around when you came into office.

DB: When I started in 2014, obviously the SAFE Act had been in effect for awhile but it was still a fresh issue, just not just in this office but statewide. As far as immediate effects, there really wasn't a whole lot. I do know anecdotally that there was some confusion from our customers, we had people coming in to ask questions about how the law would affect their current pistol permits, and of course other long guns, firearms, that they owned. We actually created a little handout that we could print multiple copies of that had the URL for the New York State website that they created, an informational website for the SAFE Act, and that also had their hotline for the state police for gun related questions. So we handed those out, we really tried to direct people towards those resources, the state police would be better at answering questions regarding laws than we would be in this office. Also at first we had some of the assault weapon registration forms printed out, and we did hand those out. We didn't answer a ton of questions on them; again, we tried to direct people towards the state police since they're the ones that were handling that process. And we had those in the office until that amnesty period ended, and the truth is we don't get really any questions about the assault weapons.

CK: Was there an increase in the volume of applicants in your pistol permit department, a year before you came into office? Or afterward?

DB: I've not compared the actual numbers of applications that were completely processed, and permits that were issued from the SAFE Act to today. I know in the past few years it seems like we have handed out more applications. Again, I haven't compared to see how many of those have come back, and how many permits we're actually issuing though. A lot of people seem to come and pick up the paperwork and don't necessarily fill it out. But I do think that last year with some of the coverage of the presidential election, it seems that spurred some people to come in and get applications at a higher rate than in previous years. I'm not sure how much impact the SAFE Act itself had on that though.

CK: Did you have to make any staffing procedures or use any overtime in your pistol permit department as a result of the SAFE Act?

DB: No, I would not say that we had to increase staffing or anything like that because of increased interest in the applications. Recently we did streamline our application a little bit. In Chenango County we hand out packets that contains the New York State application, two copies of that, and then we also have a sheriff's questionnaire, and an instruction sheet, and recently we revamped the instruction sheet so it prints out on one sheet and it's clearer, and we switched from using a card stock for the applications to just regular paper, and that allows us to produce them a lot quicker than before. We don't really run into any issues as far as producing the applications, we're able to keep up with that no problem.

CK: What about the recertification process?

DB: As far as impact from the SAFE Act, I would say that the largest impact we've had recently in this office has been the recertification. When it was first rolled out I think there was a lot of confusion especially in Chenango County because we had switched from a paper card permit system to a plastic permit. And when we had done that we didn't make it a mandatory switch. So if you had a paper permit and you wanted to register a firearm to your paper permit, we would automatically switch you over to our plastic card system. If you had a paper card and you weren't doing any changes to it you could just keep your paper card. When individuals did come in, and we did make an amendment to their permit and they switched to the plastic card we went through their file with them again to just verify that the pistols that were registered on their permit were the ones that actually were in their possession. We made sure their mailing address, height and weight, all that, was the same.

So a lot of people believed that us issuing that plastic card was this recertification piece, so we had some confusion having to explain to them that this recertification is a separate thing, done through the New York State Police, and so when the first notifications came out in the spring, we did have a number of people come in to the office with the letters wanting to know if it was something they still needed to do, wanting to know if it was a legitimate request, in this day and age with scams. Where especially there's a lot of personal information that needs to be submitted on those recertification forms so you can understand why people would be confused.

What we did in order to get ahead of those questions is we had a meeting, an all staff meeting. I explained the process as it was explained to me by the state police to my clerks, and then explained to them the information that we needed to give our customers, and then the

information that they really needed to be getting from the state police since they're the ones who are actually going to be processing those recertifications.

Again, we printed out more copies of the handouts with the 1-800 number for the state police. If our customers have questions on how to actually fill out the form itself, we've been directing them to the state police. We also printed out some hard copies of the form because I know when the state police sent out the notification letters for people to recertify, they were directing them to the online portal. Which is a fantastic option, but I know a lot of people aren't comfortable with computers or may not have access to the internet. So we printed out some hard copies of the forms to hand out if people came to us directly. And then on top of that, I think the recertification is doing what it was intended to do, in that its prompting people to correct any deficiencies in their record. So we've had an increase of people coming in to maybe update a caliber on a gun that's been incorrectly registered, or to let us know of some firearms they disposed of years ago but never actually came in to do the paperwork on that to have those removed from their permits. So we've had an increase of those types of transactions. And they can be a little more time consuming than a standard registering of a new pistol, that's a pretty quick transaction for us. Some of the older ones involve some searching through the file and a little bit of back and forth with the questioning between the customer and ourselves as to what had transpired and what hasn't transpired. We have definitely had an uptick in workload from that. But overall, it hasn't been a landslide with people lining up out the door or anything like that.

CK: What about the Opt-Out component? Has that been a popular feature in your county?

DB: Yes, I'm glad you brought that up. When the SAFE Act rolled out, yes, we did have a number of people that came in specifically to fill out those Opt-Out forms. And now our protocol is to inform people of their right to opt-out their name and address from public information when they come and pick up their new permit, or if they've gone from the paper card and are getting the plastic card, or updating their record, we're giving them the option of filling that form out. We don't have any exact numbers on who has and who hasn't filled the form out, just anecdotally I would feel it's about 50/50. Some people seem to be very adamant that they get that form filled out, others seem to care less whether or not their name and address is public.

CK: How is your constituency been reacting in Chenango County, are you receiving any pressures from anywhere, have there been any political protests or rallies?

DB: I do believe that there's been some, there's definitely been some meetings, and I believe that organization SCOPE has organized at least one, maybe two. I don't think there's been any large scale rallies, none that I'm aware of, I do know when the recertification piece began that there was an informational session, and I believe that our local state senator and state assemblyman attended that. We have not, to my knowledge, received any pressure from the public to change anything that we're doing in this office. We actually get a lot of positive feedback from the way we handle things, we understand that gun ownership is important to a lot of people, especially in a rural county like ours, and we try to be courteous and efficient whenever anyone comes in to have a pistol transaction.

There are a number of yard signs that say "Repeal the SAFE Act" that are still in people's yards.

Seems like every winter there's less and less because the snow knocks them down and people don't bother to put them back up. And every once in awhile you see a tailgate or a bumper with a sticker on it saying to "Repeal the SAFE Act", but as far as large scale demonstrations or anything like that we really haven't seen too many things like that. I do believe that our county legislature, and you can probably follow up on this, but I do believe they passed a resolution in opposition to the SAFE Act, and I think a lot of upstate counties did that as well. But we haven't really received any pressure in this office to really act out on it in one way or another.

CK: Considering the controversy of the SAFE Act and how it's affecting different government agencies administratively, what, if anything, should have been done differently?

DB: I think that the state gets criticized largely for the way that the legislation was actually passed. There wasn't a large public review process. It didn't seem like there was a lot of input from county clerks, I don't think there was a lot of input from local sheriffs in creating the law, and I don't think there was a lot of input from the general public in the certain aspects, and the fine details of the law itself. I don't want to comment one way or the other really on the necessity of the law, I think you can debate that forever. I do think though that when people feel like their voice is not being heard, it's quick to go to anger. I think it's easy for people that want to push an agenda one way or another to seize on that.

CK: Do you think a possible constitutional convention will affect the SAFE Act?

DB: I haven't heard of too many people projecting on what would or what wouldn't happen with the SAFE Act if there were a constitutional convention. It being a controversial piece of legislation I would imagine that there would definitely be discussion about it. I'm not sure that on a constitutional level, I guess you could put some sort of right to carry firearms in the constitution. But yes I imagine that it would probably be discussed since you would hope that at a constitutional convention all types of legislation and current laws would be discussed. From what I've gathered from public opinion polls and what the experts are saying it sounds like a constitutional convention is not going to transpire though.

CK: I do have one last question and its about the county clerk position, I know that you're a deputy county clerk so you are appointed by the county clerk and not directly elected, but I still think you will have insight on this - one thing I think is interesting about the county clerk position is that county clerks are both elected officials, with their own independent constituencies, and public administrators, and because the state-county relationship is unitary where Albany passes laws and the counties have to implement them and follow. Sometimes county clerks have to implement these controversial laws that their constituencies might be opposed to. What do you think that balance is like?

DB: I think that that answer definitely changes based on who is the county clerk, and the county that they live in, and probably what their own personal beliefs are. I think in this office what we try to do is try to follow the law; it's truly not our place to choose which laws we can enforce and which laws we don't enforce. We don't really see ourselves as any sort of law enforcement agency, and we often tell people that when it comes to the pistol permit program. We get a lot of questions about the legality of can you do this and can you do that, we really are a clerk's office,

we're record keepers, we're public servants, we do our best job with any sort of law that may be controversial, we do our best job to give as much information as we can to the constituents so they can understand why it is we're doing what we're doing. And then we also provide resources for them to contact the people that can make a difference, like the people in the legislature, and their other local government officials that can enact policy changes. We provide them with contact information for anything like that that they request. But it definitely is a balancing act. Again, I think the priority we put here though is that the law is the law and we're going to do our best to uphold that.

CK: Is there anything else you would like to add about any of the previous questions or anything else on this topic?

DB: I think just that when it comes to big administrative changes like this that are handed down from legislation, one of the issues always seems to be communication between various levels of government and various constituencies. I do think that the state police have done an admirable job communicating changes at their level, and how that's going to affect our office. I do know that their staff, the ones we deal with, is not incredibly large and they cover a large part of the state, and I do feel like they have passed the information on to us when they've had it, it just seems like its taken awhile for a number of these things to take shape and that unfortunately causes anxiety amongst our constituents and the customers whose lives and property are affected by these procedures.

Senate Floor Vote

January 14, 2013

Aye

Adams (D), Abbabbo (D), Avella (D), Boyle (R), Breslin (D), Carlucci (D), Diaz (D), Dilan (D),
Espaillat (D), Felder (D), Flanagan (R), Fuschillo (R), Gianaris (D), Gipson (D), Golden (R),
Grisanti (R), Hannon (R), Hassell-Thompson (D), Hoylman (D), Kennedy (D), Klein (D),
Krueger (D), Lanza (R), Latimer (D), LaValle (R), Marcellino (R), Martins (R), Montgomery
(D), O'Brien (D), Parker (D), Peralta (D), Perkins (D), Rivera (D), Sampson (D), Sanders (D),
Savino (D), Serrano (D), Skelos (R), Smith (D), Squadron (D), Stavisky (D), Stewart-Cousins
(D), Valesky (D)

Nay

Ball (R), Bonacic (R), DeFrancisco (R), Farley (R), Gallivan (R), Griffo (R), Larkin (R), Libous

(R), Little (R), Marchione (R), Maziarz (R), Nozzolio (R), O'Mara (R), Ranzenhofer (R), Ritchie (R), Robach (R), Seward (R), Young (R)

Excused

Zeldin (R)

Assembly Floor Vote

January 15, 2013

Aye

Abbate (D), Abinanti (D), Arroyo (D), Aubry (D), Barrett (D), Barron (D), Benedetto (D), Boyland (D), Braunstein (D), Brennan (D), Bronson (D), Brook-Krasny (D), Buchwald (D), Cahill (D), Camara (D), Castro (D), Clark (D), Colton (D), Cook (D), Curran (R), Cusick (D), Cymbrowitz (D), DenDekker (D), Dinowitz (D), Englebright (D), Espinal (D), Fahy (D), Farrell (D), Galef (D), Gantt (D), Gibson (D), Gjonaj (D), Glick (D), Goldfeder (D), Gottfried (D), Heastie (D), Hennessey (D), Hevesi (D), Hikind (D), Hooper (D), Jacobs (D), Jaffee (D), Kavanagh (D), Kellner (D), Kim (D), Lavine (D), Lentol (D), Lifton (D), Lopez (D), Losquadro (R), Lupinacci (R), Magnarelli (D), Maisel (D), Malliotakis (R), Markey (D), Mayer (D), McDonald (D), McDonough (R), McKevitt (R), Miller (D), Millman (D), Morelle (D), Mosley (D), Moya (D), Nolan (D), O'Donnell (D), Ortiz (D), Otis (D), Paulin (D), Peoples-Stokes (D), Perry (D), Pretlow (D), Quart (D), Ra (R), Ramos (D), Roberts (D), Robinson (D), Rodriguez (D), Rosa (D), Rosenthal (D), Roznic (D), Jenne (D), Ryan (D), Santabarbara (D), Scarborough (D), Schimel (D), Sepulveda (D), Silver (D), Simanowitz (D), Simotas (D), Skartados (D), Solages (D), Steck (D), Stevenson (D), Stirpe (D), Sweeney (D), Thiele (D), Titone (D), Titus (D), Weinstein (D), Weisenberg (D), Weprin (D), Wright (D), Zebrowski (D)

Nay

Barclay (R), Blankenbush (R), Borelli (R), Brindisi (D), Butler (R), Ceretto (R), Corwin (R),
 Crouch (R), DiPietro (R), Duprey (R), Finch (R), Friend (R), Gabryszak (D), Garbarino (R),
 Giglio (R), Goodell (R), Graf (R), Gunther (D), Hawley (R), Johns (R), Jordan (R), Katz (R),
 Kearns (D), Kolb (R), Lalor (R), Lupardo (D), Magee (D), McLaughlin (R), Montesano (R),
 Nojay (R), Oaks (R), Palmesano (R), Rabbitt (R), Raia (R), Reilich (R), Saladino (R),
 Schimminger (D), Skoufis (D), Stec (R), Tedisco (R), Tenney (R), Walter (R)

Excused

Crespo (D), Fitzpatrick (R), Rivera (D)

County Name	Population Size	Rank in NYS	Median Household Income	Median Real Estate Value
Genesee	59,454	39	\$51,734	\$104,800
Wayne	92,473	26	\$53,497	\$108,500
Monroe	749,606	5	\$52,700	\$134,200

Rockland	320,903	8	\$86,020	\$449,600
Niagara	214,249	13	\$47,736	\$103,400
Wyoming	41,531	50	\$50,635	\$99,300
Hamilton	4,773	57	\$51,595	\$165,400
Oswego	121,165	19	\$47,288	\$92,500
Schuyler	18,460	56	\$47,869	\$91,900
Allegany	48,109	47	\$42,095	\$67,600
Chenango	49,503	44	\$44,127	\$90,400

INSTRUCTIONS: Print or type in black ink only

NYSID Number		PPB 3 (Rev. 06/17)	STATE OF NEW YORK PISTOL /REVOLVER LICENSE APPLICATION	County of Issue	
License Number				Expiration Date	Code
Date of Issue	Month	Day	Year	Month	Day
				Year	

In accordance with the Federal Privacy Act of 1974, you are hereby notified that your Social Security Number is not mandated by law. It is required by the Pistol Permit Bureau as part of the standard for recording Firearms. Failure to disclose your Social Security Number will prohibit your transaction from being recorded. The State Police will release your Social Security Number only for reasons required by law or with your written consent.

Last Name										Suffix		
First Name										MI	Date of Birth - MM DD YYYY	NY Driver's License (or NY Non-Driver ID) No.
Gender	Social Security			Race	Height ft	in	Weight	Eyes	Hair	Citizen of U.S.A. <input type="checkbox"/> YES <input type="checkbox"/> NO		

Physical Address (Street number, street name, apartment number, city, state, zip code)

Mailing Address (if different from physical address)

Primary Phone Number Secondary Phone Number Email Address

Employed By Present Occupation Nature of Business

Business Address (Street number, street name, apartment number, city, state, zip code)

I hereby apply for a Pistol / Revolver License to: (Check only one) ☐ Carry Concealed ☐ * Possess on Premises ☐ * Possess / Carry During Employment
 (*) Premise Address or Employer Name and Address must be provided below:

Employer Name (If Carry During Employment) Address or Other Location (Street number, street name, apartment number, city, state, zip code)

A license is required for the following reasons:

Give four character references who by their signature attest to your good moral character.

Last, First, MI	Street Address, (Street number, street name, apartment number, city, state, zip code)	Signature

Have you ever been arrested, summoned, charged or indicted anywhere for any offense, including DWI (except traffic infractions)? ☐ YES ☐ NO
 If Yes, furnish the following information:

Arrest Date	Police Agency	Charge	Disposition Date	Disposition Court	Disposition

Are you a fugitive from justice? ☐ YES ☐ NO

Are you an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802? ☐ YES ☐ NO

Are you an alien illegally or unlawfully in the United States? ☐ YES ☐ NO

Are you an alien admitted to the United States who does not qualify for the exceptions under 18 U.S.C. 922 (y)(2)? ☐ YES ☐ NO

Have you been discharged from the Armed Forces under dishonorable conditions? ☐ YES ☐ NO

Have you ever renounced your United States citizenship? ☐ YES ☐ NO

Have you ever suffered any mental illness? ☐ YES ☐ NO

Have you ever been involuntarily committed to a mental health facility? ☐ YES ☐ NO

Have you ever had a pistol / revolver license revoked? ☐ YES ☐ NO

Are you under any firearms suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act? ☐ YES ☐ NO

Have you had a guardian appointed for you pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease you lack the mental capacity to contract or manage your own affairs? ☐ YES ☐ NO

Are you aware of any good cause for the denial of the license? ☐ YES ☐ NO

Are you prohibited from possessing firearms under federal law, including having been convicted in any court of a misdemeanor crime of domestic violence or being under indictment for a crime punishable by imprisonment for a term exceeding one year? ☐ YES ☐ NO

If the answer to any of the questions above is YES, explain here:

For applicants under twenty-one years of age only:

Have you been honorably discharged from the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard of the State of New York?

☐ YES ☐ NO

Photograph
Of Applicant
Taken Within 30 Days

Full Face Only

Knowingly providing false information will be sufficient cause to deny this application and constitutes a crime punishable by fine, imprisonment, or both. I am aware that the following conditions affect any license which may be issued to me:

1. No license issued as a result of this application is valid in the City of New York.
2. Any license issued as a result of this application will be valid only for a pistol or revolver specifically described in the license properly issued by the licensing officer.
3. If I permanently change my address, notice of such change and my new address must be forwarded to the Superintendent of the State Police and in Nassau County and Suffolk County, to the licensing officer of that county, within 10 days of such change.
4. Any license issued as a result of this application is subject to revocation at any time by the licensing officer or any judge or justice of a court of record.

Jurat:

Signed and sworn to before me

This _____ day of _____, 20 _____
at _____, New York

Signature of Applicant

Signature of Officer Administering Oath

Title of Officer

APPLICATION NOT VALID UNLESS SWORN

Fingerprints submitted electronically by:

Name _____ Rank _____ Organization _____

Date Submitted _____

Investigation Report – All information provided by this applicant has been verified:

Name _____ Rank _____ Organization _____

Signature of Investigating Officer

This application is Approved – Disapproved (Strike out one)

The following restriction(s) is (are) applicable to this license:

Title and Signature of Licensing Officer

If Licensing Officer authorizes the possession of a pistol, revolver or single shot firearm(s) at the time of issue of original license, furnish the following information:

Manufacturer	Pistol / Revolver / Single Shot	Model	Frame Only	Caliber(s)	Serial Number	Property Of
			<input type="checkbox"/>			
			<input type="checkbox"/>			
			<input type="checkbox"/>			
			<input type="checkbox"/>			

Duplicate of this application must be filed with the Superintendent of State Police within 10 days of issuance as required by Penal Law Section 400.00 SUBD.5.

This form is approved by Superintendent of the State Police as required by Penal Law section 400.00, SUBD. 3.