

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DWIGHT D. MITCHELL,

Plaintiff,

v.

**JENNIFER DAVENPORT, in her
official capacity as Attorney General of the
State of New Jersey; and**

**JEANNE HENGEMUHLE, in her
official capacity as Acting Superintendent
of the New Jersey State Police,**

Defendants.

Hon. Michael A. Shipp, U.S.D.J.
Hon. Rukhsanah L. Singh, U.S.M.J.

Civil Action

Docket No. 3:26-cv-03986-MAS-RLS

**FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF (42 U.S.C. § 1983)**

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Local Civil Rule 10.1 Statement

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Plaintiff Dwight D. Mitchell (“Plaintiff”), appearing pro se, brings this action against Defendants Jennifer Davenport and Jeanne Hengemuhle, and alleges as follows:

I. INTRODUCTION

1. This is an action under 42 U.S.C. § 1983 for declaratory and injunctive relief. Plaintiff challenges the constitutionality of N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) (collectively, the “Mandates”), and N.J. Stat. Ann. § 2C:58-4.5(a), both facially and as applied. The Mandates impose criminally enforceable disclosure, display, and turnover duties during stops or detentions. Section 2C:58-4.5(a) separately imposes fourth-degree criminal liability on public concealed carry unless the person possesses on the person a valid carry permit and proof of liability insurance. Plaintiff’s pending request for preliminary injunctive relief is directed only to N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2), the Disclosure Mandate and Display Mandate. Plaintiff does not presently seek preliminary injunctive relief under N.J. Stat. Ann. § 2C:58-4.4(c) or N.J. Stat. Ann. § 2C:58-4.5(a), which are pleaded for merits adjudication and final declaratory and permanent injunctive relief.

2. This case presents a narrow but consequential constitutional question: whether the State may impose criminal penalties on a law-abiding citizen for failing to immediately disclose the presence of a firearm during a routine traffic

stop, even where the firearm is unloaded, secured, and not accessible. Plaintiff does not challenge public carry generally, but the application of the statute to ordinary vehicle travel where no immediate threat exists. As applied in this context, the statute requires disclosure untethered to accessibility or dangerousness and alters the dynamics of routine encounters. The statute thereby forces Plaintiff to choose between engaging in lawful conduct and risking criminal liability, resulting in a present and continuing injury.

3. In Plaintiff's intended public carriage covered by N.J. Stat. Ann. § 2C:58-4.4(b)(1), the handgun remains unloaded, locked in a container, vehicle safe, or trunk, and not readily accessible. Plaintiff's transport tracks the Firearm Owners Protection Act ("FOPA"), 18 U.S.C. § 926A.

4. Subsection (b)(1) criminalizes silence. It compels a permit holder—"if stopped or detained by law enforcement while carrying a handgun in public or traveling with a handgun in a motor vehicle"—to "immediately disclose" that status. A violation is a crime of the fourth degree. N.J. Stat. Ann. § 2C:58-4.4(b)(1). This Complaint refers to subsection (b)(1) as the "Disclosure Mandate."

5. Subsection (b)(2) criminalizes nonproduction of papers. It compels a permit holder to "display" his permit. A first violation is a disorderly persons offense. A second or subsequent offense escalates to a crime of the fourth degree.

N.J. Stat. Ann. § 2C:58-4.4(b)(2). This Complaint refers to subsection (b)(2) as the “Display Mandate.”

6. Subsection (c) compels firearm surrender for inspection. It commands that a permit holder—if “detained ... as part of a criminal investigation”—must “provide the handgun ... upon request” for inspection. A violation is a crime of the fourth degree. N.J. Stat. Ann. § 2C:58-4.4(c). This Complaint refers to subsection (c) as the “Turnover Mandate.”

7. Section 2C:58-4.5(a) provides that, except as permitted pursuant to N.J. Stat. Ann. § 2C:39-6, and in addition to any criminal penalties under N.J. Stat. Ann. § 2C:39-5(b), N.J. Stat. Ann. § 2C:58-4.4, N.J. Stat. Ann. § 2C:58-4.6, or any other law, it is a crime of the fourth degree for a person in a public place to carry a handgun concealed on or about the person without possessing on the person a valid and lawfully issued permit to carry and proof of liability insurance. This Complaint refers to § 2C:58-4.5(a) as the “Physical-Possession Mandate.” Plaintiff challenges the Physical-Possession Mandate both facially and as applied. Plaintiff does not challenge N.J. Stat. Ann. § 2C:58-4.5(b) in this action.

8. Plaintiff does not seek to rewrite New Jersey’s firearms code. Plaintiff does not challenge in this action N.J. Stat. Ann. § 2C:39-5(b), New Jersey’s separate unlicensed-handgun statute, and does not challenge New Jersey’s ability to administer objective, constitutionally valid carry-permit criteria. Plaintiff seeks

prospective declaratory and injunctive relief against the Mandates and the Physical-Possession Mandate because they force Plaintiff to abandon constitutional rights or accept criminal exposure. Plaintiff's pending request for preliminary injunctive relief remains limited to N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2).

9. Plaintiff does not dispute that officers may take constitutionally justified safety measures in the presence of individualized facts. Plaintiff challenges the State's decision to impose categorical, criminal duties—compelled speech, compelled display, and compelled surrender—during routine stops even when the handgun is unloaded, locked, and inaccessible.

10. This case is presented in a deliberately narrow factual posture. At minimum, Plaintiff challenges the application of the statute to the transport of an unloaded, secured, and inaccessible handgun in a motor vehicle during ordinary travel. This framing permits resolution of the constitutional questions presented without reaching broader applications, while Plaintiff expressly preserves all facial and additional as-applied challenges for full merits adjudication.

11. As applied to Plaintiff's pleaded conduct—transporting a lawfully owned handgun unloaded, secured, locked, and inaccessible—the Disclosure Mandate (a) burdens Second Amendment conduct, (b) compels speech in violation of the First Amendment, (c) creates an irrational classification under the Equal Protection Clause, and (d) conflicts with federal objectives in FOPA. See *N.Y.*

State Rifle & Pistol Ass’n, Inc. v. Bruen, 597 U.S. 1, 30, 32–33 (2022); *United States v. Rahimi*, 602 U.S. 680, 684–87 (2024) (reaffirming Bruen’s text-and-history method and rejecting a “historical twin” demand); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977); *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *303 Creative LLC v. Elenis*, 600 U.S. 570, 598–603 (2023); *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp.*, 515 U.S. 557, 573 (1995); *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Revell v. Port Auth. of N.Y. & N.J.*, 598 F.3d 128, 136–37 (3d Cir. 2010).

12. Plaintiff wishes to refrain from compelled disclosure and to engage in lawful transport of an unloaded, secured, and inaccessible handgun without being forced to choose between silence and criminal liability during routine encounters with law enforcement. Plaintiff seeks prospective relief. The First Amendment prohibits compelled speech. See *Riley v. Nat’l Fed’n of the Blind*, 487 U.S. 781, 795–97 (1988); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977); *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 244–45 (2002). Plaintiff seeks prospective relief against Defendants under *Ex parte Young*, 209 U.S. 123, 155–56 (1908).

II. PARTIES

13. Plaintiff Dwight D. Mitchell ("Plaintiff") is an individual residing at 20 Summershade Circle, Piscataway, New Jersey 08854.

14. Upon information and belief, Defendant Jennifer Davenport is the Attorney General of New Jersey, with an office address at 25 Market Street, Trenton, New Jersey 08611. She is sued in her official capacity. If the incumbent Attorney General changes during this action, the successor is automatically substituted under Fed. R. Civ. P. 25(d).

15. Upon information and belief, Defendant Jeanne Hengemuhle is the Acting Superintendent of the New Jersey State Police, with an office address at 1040 River Road, West Trenton, New Jersey 08628. She is sued in her official capacity. If the incumbent Superintendent changes during this action, the successor is automatically substituted under Fed. R. Civ. P. 25(d).

16. Davenport and Hengemuhle, together with their officers, agents, employees, and all persons acting in concert or participation with them, are hereinafter referred to collectively as “Defendants.”

III. JURISDICTION AND VENUE

17. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) because Plaintiff’s claims arise under the Constitution and laws of the United States. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201–2202.

18. This action also arises under 42 U.S.C. § 1983, which supplies a cause of action against state officials who, acting under color of law, deprive individuals of rights secured by the Constitution.

19. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendants are state officers with enforcement authority in this District, Plaintiff resides in this District, and the threatened enforcement and injury pleaded here occur in this District.

20. This action seeks prospective declaratory and injunctive relief against state officials responsible for enforcing the challenged statute, a form of relief long recognized as proper under *Ex parte Young* and routinely adjudicated in federal courts before any criminal enforcement occurs.

21. Plaintiff brings each claim challenging N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c), and N.J. Stat. Ann. § 2C:58-4.5(a), both facially and as applied. Plaintiff challenges those provisions as unconstitutional in all their applications and, independently, as unconstitutional at minimum as applied to the conduct pleaded herein. Plaintiff seeks preliminary relief only as to N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2). Plaintiff does not presently seek preliminary injunctive relief as to N.J. Stat. Ann. § 2C:58-4.4(c) and N.J. Stat. Ann. § 2C:58-4.5(a), and instead pleads these claims for merits adjudication and final declaratory

and permanent injunctive relief. See *United States v. Salerno*, 481 U.S. 739, 745 (1987); *City of Los Angeles v. Patel*, 576 U.S. 409, 418–19 (2015).

IV. STANDING

22. Plaintiff has suffered injury in fact that is concrete, particularized, and ongoing. The Mandates impose criminal penalties during stops and detentions. Plaintiff responds by forgoing protected conduct. Since November 2025, Plaintiff has not transported any firearm outside his home. Plaintiff's abstention is directly caused by the credible threat of criminal prosecution under N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2). Self-censorship and compelled abstention under a criminal statute supply Article III injury. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014); *Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289, 298 (1979). Plaintiff's cessation of conduct is not voluntary but compelled by the credible threat of enforcement, and such compliance in the face of a criminal statute does not constitute a self-inflicted injury. See *MedImmune*, 549 U.S. at 129.

23. Plaintiff has standing to bring his Second Amendment claims because the challenged statute burdens conduct protected by the Constitution's plain text and has already caused Plaintiff to forgo that conduct. The credible threat of enforcement has forced Plaintiff to cease lawful public carriage and secured vehicle transport of a handgun. The ongoing chilling of Second Amendment rights constitutes a concrete and continuing injury sufficient for Article III standing. See

New York State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1, 24–26 (2022); *Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011); *Reilly v. City of Harrisburg*, 858 F.3d 173, 176–79 (3d Cir. 2017). A plaintiff need not await prior enforcement where the statute directly applies to intended conduct and the State has not disavowed enforcement. See *Susan B. Anthony List*, 573 U.S. at 158–61.

24. Plaintiff’s injury is traceable to Defendants and redressable by the relief sought. The Attorney General possesses statutory authority to “maintain a general supervision over criminal justice” and ensure the uniform enforcement of the laws throughout the State. N.J. Stat. Ann. § 52:17B-103. The Attorney General also exercises supervisory authority over county prosecutors and may supersede them in any investigation or prosecution. N.J. Stat. Ann. § 52:17B-98. The Superintendent of the New Jersey State Police operates under the authority of the Attorney General and is responsible for statewide law-enforcement operations, including traffic stops and enforcement of firearms laws. The State has affirmatively implemented the challenged mandates through statewide law-enforcement guidance. In a September 15, 2023 memorandum, the Attorney General directed law-enforcement agencies regarding enforcement of the disclosure and permit-display requirements during stops and detentions. That guidance, directed to all law-enforcement agencies and certified firearms instructors, references then-pending federal litigation, including *Koons/Siegel v.*

Platkin, while continuing to instruct enforcement of the challenged mandates during routine encounters. These provisions and actions establish a direct enforcement connection and confirm that enforcement of the statute is deliberate, statewide, and ongoing, reflecting how the statute is applied in practice during routine encounters and eliminating any uncertainty regarding its enforcement. See *Ex parte Young*, 209 U.S. 123, 155–56 (1908); *Verizon Md. Inc. v. Pub. Serv. Comm’n*, 535 U.S. 635, 642 (2002).

25. Plaintiff’s injury is concrete and imminent because traffic stops are a routine and unavoidable feature of ordinary vehicle travel. As a licensed driver who regularly uses public roadways, Plaintiff will inevitably be subject to traffic stops and other police-initiated encounters. Because the challenged statute applies automatically during such encounters, enforcement is not speculative but inevitable absent judicial relief. See *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014).

26. Plaintiff’s injury does not depend on a speculative chain of future events. The challenged statute applies automatically during routine stops and detentions, and Plaintiff’s intended conduct falls squarely within its scope. Where a statute directly regulates intended conduct and imposes criminal penalties for noncompliance, the injury is not contingent or hypothetical but immediate and

concrete. See *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014); *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128–29 (2007)

27. Plaintiff’s injury is not limited to § 2C:58-4.4(b)(1). Plaintiff is also chilled by § 2C:58-4.4(b)(2), which criminalizes the inability to display a physical permit during a roadside encounter—even where Plaintiff remains continuously and validly licensed—and escalates repeat nonproduction to a fourth-degree crime. Plaintiff is further chilled by § 2C:58-4.4(c), which authorizes compelled firearm turnover and “inspection” whenever an officer characterizes a detention as part of a “criminal investigation,” creating a credible risk that routine traffic enforcement will be relabeled to trigger mandatory seizure and forced handling of a secured firearm. These provisions independently deter Plaintiff’s intended lawful conduct and expose him to arrest, prosecution, and collateral consequences. See *Susan B. Anthony List*, 573 U.S. at 158–61; *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128–29 (2007).

28. Plaintiff is also chilled by N.J. Stat. Ann. § 2C:58-4.5(a). Plaintiff holds a valid New Jersey permit to carry and intends to carry a handgun concealed on or about his person in public for lawful self-defense. The Physical-Possession Mandate directly regulates that intended conduct by imposing fourth-degree criminal liability if Plaintiff carries concealed in public without possessing on the person a valid carry permit and proof of liability insurance. Temporary

nonpossession of documentation may occur through ordinary circumstances, including loss, theft, damage, wallet misplacement, technological failure, inaccessible electronic proof, a dead phone, inadvertent omission, or temporary unavailability of proof, even though Plaintiff remains validly licensed. Plaintiff therefore faces a credible threat of criminal prosecution for exercising public carry while temporarily lacking on-person documentary proof.

29. Plaintiff's injuries are redressable by the relief sought. An order enjoining enforcement of the challenged provisions would remove the credible threat of prosecution, eliminate the compelled disclosure and seizure requirements, and permit Plaintiff to resume lawful public carriage and vehicle transport of a handgun in the manner described herein. See *MedImmune*, 549 U.S. at 128–29; *Virginia v. Am. Booksellers Ass'n*, 484 U.S. 383, 393 (1988). Injunctive relief against Defendants in their official capacities would redress Plaintiff's injuries by preventing enforcement by those acting under their authority, including state and local law-enforcement officers subject to the Attorney General's supervisory control. See *Ex parte Young*, 209 U.S. 123, 155–56 (1908).

30. Plaintiff has standing to assert his First Amendment compelled-speech claim. The Disclosure Mandate forces Plaintiff to speak under threat of fourth-degree criminal punishment during routine stops and detentions. The compelled disclosure alters Plaintiff's lawful conduct and forces a choice between

compelled speech and criminal punishment. The loss of First Amendment freedoms, even for minimal periods of time, constitutes irreparable injury. *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020); *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

31. Plaintiff has standing to seek preemption-based declaratory and injunctive relief because he engages in interstate travel covered by 18 U.S.C. § 926A and is presently deterred by the Disclosure Mandate’s compelled-disclosure requirement and criminal penalty during stops. Plaintiff engages in interstate public carriage qualifying for federal safe-passage protection under 18 U.S.C. § 926A, including travel between jurisdictions where he may lawfully possess and carry firearms, with the firearm unloaded and not readily accessible. As applied to § 926A-qualifying travel, the Disclosure Mandate imposes additional state-law conditions and criminal penalties that interfere with Congress’s purpose of protecting safe passage from burdensome and inconsistent state restriction.

V. RIPENESS

32. Plaintiff’s claims present a justiciable controversy fit for judicial decision. Plaintiff challenges a final, operative statute that presently governs his conduct and imposes criminal liability for noncompliance during stops or detentions. The Disclosure Mandate compels “immediate” disclosure under threat of fourth-degree liability. The statute supplies no objective definition of “immediately” and no safe harbor

clarifying compliant timing. That design invites discretionary enforcement.

Pre-enforcement challenges are ripe when intended conduct is arguably proscribed and the law chills constitutional rights. *Artway v. Att’y Gen.*, 81 F.3d 1235, 1247 (3d Cir. 1996).

33. Withholding review imposes substantial hardship. The credible threat of enforcement has already forced Plaintiff to stop transporting firearms incidental to lawful public carriage and to cease professional instruction requiring such transport. Plaintiff’s complete cessation is ongoing. The Disclosure Mandate’s criminal penalty drives that cessation.

34. Plaintiff need not await arrest or prosecution. The threat is credible. The intended conduct is covered. Defendants have not disavowed enforcement as to Plaintiff. The Mandates therefore impose an ongoing restraint that forces Plaintiff to refrain from constitutionally protected public carriage, submit to compelled speech, or risk arrest and prosecution. See *Susan B. Anthony List*, 573 U.S. at 159–61; *Presbytery of N.J. of the Orthodox Presbyterian Church v. Florio*, 40 F.3d 1454, 1463 (3d Cir. 1994); *Nat’l Shooting Sports Found. v. Att’y Gen. of N.J.*, 80 F.4th 215, 220–23 (3d Cir. 2023).

35. The claims are ripe because the statute’s compelled-speech requirement and vagueness regarding “immediacy” exert present, daily pressure on Plaintiff to alter or forgo protected conduct during routine stops. The undefined

timing command, coupled with criminal liability, grants officers after-the-fact discretion to declare Plaintiff's timing criminal. That structure chills protected conduct and invites arbitrary enforcement. *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972); *Kolender v. Lawson*, 461 U.S. 352, 357–58 (1983). By mandating immediate firearm disclosure under fourth-degree penalty, the statute alters the dynamics of routine stops in a manner that reasonably deters lawful public carriage. *Pennsylvania v. Mimms*, 434 U.S. 106, 110 (1977).

36. Plaintiff's facial and as-applied Second Amendment challenge to N.J. Stat. Ann. § 2C:58-4.5(a) is ripe because the statute presently governs Plaintiff's intended concealed public carry and attaches fourth-degree criminal liability to the absence of on-person documentary proof. The issue is legal and requires no completed prosecution. Plaintiff need not carry while temporarily lacking documentation, invite arrest, or await criminal prosecution before seeking prospective merits relief. See *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–61 (2014); *Artway v. Att'y Gen. of N.J.*, 81 F.3d 1235, 1247 (3d Cir. 1996); *Presbytery of N.J. of the Orthodox Presbyterian Church v. Florio*, 40 F.3d 1454, 1463 (3d Cir. 1994).

37. Plaintiff's preemption claim is ripe because it is purely legal and presently affects federally protected interstate travel. The Disclosure Mandate adds a state-law criminal condition at the moment of a stop. As applied to §

926A-qualifying travel, the Disclosure Mandate stands as an obstacle to Congress's objectives by imposing immediate compelled disclosure during a stop or detention at the precise moment Congress sought to shield travelers from discretionary arrest and prosecution. By attaching criminal liability to silence during federally protected transport, the statute recreates the risk of arrest and criminal exposure that § 926A was enacted to eliminate.

VI. STATEMENT OF FACTS

38. Before November 2025, Plaintiff regularly engaged in lawful public carriage and incidental, secured vehicle transport of a handgun in New Jersey. Since November 2025, Plaintiff has ceased transporting any firearm outside his home because the Mandates impose criminal penalties during ordinary stops and detentions and create a credible threat of arrest and prosecution for silence or roadside nonproduction. Plaintiff's cessation continues. Plaintiff intends to resume this lawful conduct immediately upon entry of prospective relief.

39. Plaintiff has ceased transporting firearms incidental to his lawful public carriage in a motor vehicle because the Disclosure Mandate and Display Mandate subject him to criminal liability for failure to immediately disclose and for temporary roadside nonproduction of permit proof under threat of criminal prosecution.

40. Before obtaining his New Jersey Permit to Carry, Plaintiff was not required to disclose the presence of, display a license for, or surrender a handgun to law enforcement during a traffic stop when the handgun was stored in a motor vehicle. Plaintiff's handguns, when transported, remain unloaded, secured in a locked container, vehicle safe, or trunk, and are not readily accessible to any occupant while driving. The challenged statute imposes new, affirmative criminally enforceable duties triggered solely by Plaintiff's permit status, even though the manner of transport remains unchanged and presents no increased risk or accessibility.

41. Plaintiff intends to resume lawful public carriage, including transport incidental thereto for lawful self-defense and professional purposes, immediately upon entry of injunctive relief.

42. Since November 2025, Plaintiff has not transported any firearm outside his home.

43. Plaintiff's abstention from transporting firearms is directly caused by the credible threat of criminal prosecution under N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2).

44. But for the Disclosure Mandate and Display Mandate, Plaintiff intends to continue transporting his handgun incidental to lawful public carriage in a manner designed to maximize safety and compliance: unloaded, secured in a

locked container, vehicle safe, or trunk, and not readily accessible to any occupant while driving.

45. Plaintiff defines public carriage and bearing arms to include the lawful possession and carrying of a firearm outside the home for self-defense. “Bearing arms” refers to the carrying of firearms by law-abiding citizens in public for purposes of self-defense, including during ordinary public movement outside the home and not limited to any single method of carry. The manner in which a law-abiding citizen chooses to carry a firearm for self-defense varies based on personal preference, safety considerations, and the circumstances of travel, including carrying on the person, in a bag or container or within a motor vehicle during ordinary public movement. A firearm stored unloaded, secured, and not readily accessible in a vehicle remains part of the exercise of the right to bear arms. This definition reflects ordinary self-defense practices and does not depend on any single method of carry outside the home. See *District of Columbia v. Heller*, 554 U.S. 570, 584 (2008); *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 32 (2022).

46. N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (c) provide no definition of the phrase “carrying a handgun in public.” The statute does not clarify whether “carrying” refers only to a handgun worn on the person, a handgun immediately

accessible in a vehicle, or any circumstance in which a handgun is merely present in a motor vehicle while a citizen moves through public space.

47. Because the statute leaves the triggering condition undefined in a criminal statute, it delegates to individual officers the authority to determine—case by case and after the fact—whether a citizen was “carrying a handgun in public” for purposes of imposing criminal liability. A criminal statute that fails to define the conduct triggering liability invites arbitrary enforcement and chills constitutionally protected activity. See *Kolender v. Lawson*, 461 U.S. 352, 357–58 (1983); *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

48. Temporary secured storage of a firearm during transit—including storage unloaded in a locked container, vehicle safe, or trunk, and not readily accessible to any occupant while driving—is incidental to and inseparable from lawful public carriage and therefore falls within the Second Amendment’s protection of bearing arms in public.

49. During public carriage by motor vehicle, Plaintiff is subject to being stopped or detained by law enforcement for routine reasons, such as traffic enforcement, accident scenes, or investigative detentions.

50. A routine traffic stop is a seizure. Its permissible duration is limited to addressing the traffic violation and ordinary inquiries incident to the stop. The stop may not be prolonged to pursue unrelated criminal investigations absent

independent reasonable suspicion. *Rodriguez v. United States*, 575 U.S. 348, 354–57 (2015).

51. Section 2C:58-4.4(c) triggers on detention “as part of a criminal investigation,” but the statute supplies no objective definition of “criminal investigation.” That omission enables discretionary relabeling of routine traffic enforcement into a “criminal investigation” to demand firearm turnover and inspection. The statute’s undefined “criminal investigation” trigger permits discretionary expansion of routine stops into investigative detentions, creating a credible risk of compelled seizure in ordinary encounters.

52. The Disclosure Mandate compels Plaintiff to immediately disclose that a handgun is stored in the vehicle during stops or detentions, on pain of fourth-degree criminal liability under N.J. Stat. Ann. § 2C:58-4.4(b)(1). The statute supplies no guidance on sequencing, phrasing, or timing relative to officer commands, requests for identification, or other compliance requirements during a stop.

53. Plaintiff wishes to remain silent about the presence of an unloaded, locked, inaccessible handgun because compelled disclosure can escalate otherwise routine encounters and create avoidable safety risk to Plaintiff.

54. Plaintiff reasonably fears that mistaken or delayed disclosure, misunderstanding of the law, or field disagreement about what “immediate”

disclosure requires will expose him to arrest, prosecution, and collateral consequences, including permit jeopardy arising from delayed or disputed disclosure.

55. The statute provides no objective definition of immediately and establishes no safe harbor clarifying when disclosure must occur during a stop or detention.

56. The absence of a defined temporal standard invites discretionary enforcement and exposes Plaintiff to criminal liability based on after-the-fact judgments about timing.

57. The credible threat of enforcement imposes an ongoing present restraint on Plaintiff's conduct.

58. Plaintiff must either refrain from constitutionally protected public carriage, submit to compelled speech during police encounters, or risk arrest and prosecution.

59. Plaintiff holds a valid New Jersey permit to carry. In ordinary life, Plaintiff may at times be unable to immediately produce the physical permit card during a traffic stop—for example, if a wallet is stolen, misplaced, damaged, forgotten, or inaccessible at the roadside—despite being fully and continuously licensed.

60. The Display Mandate criminalizes that passive failure to display even when the permit is valid and could be promptly verified through ordinary law-enforcement channels or produced shortly thereafter. Plaintiff alleges that his valid New Jersey permit to carry is issued pursuant to a statewide licensing system administered under the authority and oversight of the New Jersey State Police and is reflected in official permitting records maintained by the State. During a routine stop, officers may access statewide law-enforcement information systems or dispatch channels to confirm licensing status. Temporary roadside nonproduction of a physical permit card therefore does not reliably indicate unlicensed carry. Nevertheless, the Display Mandate converts an otherwise lawful, continuously licensed citizen into an arrestable suspect based solely on temporary inability to display a physical card at the roadside.

61. New Jersey's other licensing regimes commonly treat "failure to exhibit" as fine-level conduct that may be cured by later proof of valid licensure, not as indictable criminal conduct. See, e.g., N.J. Stat. Ann. § 23:3-1(f)(1) (hunting/fishing/trapping—\$10 plus costs for failing to conspicuously display); N.J. Stat. Ann. § 12:7-61 (boating license—failure to exhibit is presumptive evidence of non-licensure); N.J. Stat. Ann. § 39:3-29 (driver's license—\$150 penalty for failure to exhibit upon request, and municipal court may dismiss upon later exhibition of a license valid on the date charged). The Display Mandate

departs from that proportionate approach by criminalizing roadside nonproduction and escalating repeat nonproduction to a fourth-degree crime.

62. The Physical-Possession Mandate applies independently of any stop, detention, officer request, display demand, individualized suspicion, or allegation of dangerousness. It burdens public carry at the moment a person carries a handgun concealed on or about the person in public without possessing on the person government-required papers. Thus, unlike the Display Mandate, which is triggered by an officer encounter, the Physical-Possession Mandate criminalizes the underlying condition of paper nonpossession itself.

63. Section 2C:58-4.5(a) operates “in addition to” New Jersey’s separate unlicensed-handgun penalties under N.J. Stat. Ann. § 2C:39-5(b). Its distinct burden is not merely the requirement to obtain a permit. Its distinct burden is the additional criminal requirement that a person exercising concealed public carry continuously possess government-required carry documentation on the person.

64. As applied to a person who is in fact validly licensed and otherwise lawfully authorized to carry, the additional conduct punished by § 2C:58-4.5(a) is not unlicensed carry, firearm misuse, brandishing, public terror, breach of the peace, or dangerousness. It is nonpossession of government-required carry documentation.

65. Defendants possess and exercise statewide authority to enforce, direct enforcement of, and supervise enforcement of the Mandates.

66. Plaintiff's intended conduct is within the statute's coverage during routine stops.

67. Defendants have not disavowed enforcement against Plaintiff's intended conduct.

68. Plaintiff does not always carry a handgun on his person while engaged in ordinary public movement.

69. In many ordinary circumstances, Plaintiff transports a handgun stored in the vehicle rather than worn on his person.

70. When transporting a handgun in a vehicle, Plaintiff oftentimes stores it unloaded, secured in a locked container, vehicle safe, or trunk, and not readily accessible to any occupant while driving.

71. The Disclosure Mandate applies when Plaintiff is stopped or detained while engaged in lawful public carriage with a handgun stored in a motor vehicle and compels immediate disclosure that the handgun is stored in the vehicle. N.J. Stat. Ann. § 2C:58-4.4(b)(1).

72. The Disclosure Mandate imposes heightened affirmative duties backed by serious criminal penalties on permit holders who have undergone extensive training, vetting, and licensure.

73. Plaintiff is a firearms instructor.

74. Transporting firearms incidental to lawful public carriage is necessary to conduct lawful instruction, demonstrations, and professional training services.

75. Because the Disclosure Mandate criminalizes failure to immediately disclose the presence of a secured firearm during any stop or detention, and because the Display Mandate criminalizes temporary roadside nonproduction of permit proof, Plaintiff has ceased transporting firearms incidental to lawful public carriage and has ceased conducting instruction requiring such transport.

76. Since November 2025, Plaintiff has not carried a firearm in public and has not transported any firearm outside his home.

77. Plaintiff's complete cessation is ongoing and is directly attributable to the Disclosure Mandate and Display Mandate, including the compelled immediate disclosure requirement backed by fourth-degree criminal penalties and the criminal penalties imposed for temporary roadside nonproduction of permit proof.

78. Plaintiff's intended transport is peaceable and non-threatening; the handgun is not carried on his person, brandished, or handled during transit; it is secured for safe and lawful transport incidental to public carriage.

79. Based on his professional experience providing firearms instruction to both civilians and law enforcement personnel, Plaintiff is familiar with commonly applied officer-safety response protocols during vehicle stops.

80. Plaintiff understands that the mention of a firearm during a stop is routinely treated as a heightened safety signal that may alter officer response posture even where the firearm is unloaded, locked, and not readily accessible.

81. The statute applies categorically without any individualized suspicion that a permit holder is dangerous.

82. By mandating immediate firearm disclosure under fourth-degree penalty, the statute alters the dynamics of routine stops in a manner that reasonably deters lawful public carriage. *Mimms*, 434 U.S. 106, 110.

83. The Turnover Mandate compels physical transfer of the handgun to law enforcement for “inspection,” which is a seizure. In Plaintiff’s as-applied scenario, compliance would often require Plaintiff to access a locked container, vehicle safe, or trunk and handle a handgun during a roadside encounter—precisely the type of forced handling that increases risk and escalates ordinary traffic stops.

84. Under Terry’s framework, officer-safety measures require facts supporting reasonable suspicion that the person is armed and presently dangerous, not merely armed. *Terry v. Ohio*, 392 U.S. 1, 30 (1968); *Arizona v. Johnson*, 555 U.S. 323, 326–27, 332–33 (2009). For vehicle protective searches, the justification requires a reasonable belief that the suspect is dangerous and may gain immediate control of weapons. *Michigan v. Long*, 463 U.S. 1032, 1049–50 (1983).

85. The Third Circuit has rejected an “automatic firearm exception” to Terry where the facts do not indicate illegal possession or dangerousness. *United States v. Ubiles*, 224 F.3d 213, 217–18 (3d Cir. 2000).

86. Plaintiff engages in interstate public carriage qualifying for federal safe-passage protection under 18 U.S.C. § 926A, including travel between jurisdictions where he may lawfully possess and carry firearms, with the firearm unloaded and not readily accessible. See *Revell v. Port Auth. of N.Y. & N.J.*, 598 F.3d 128, 136–37 (3d Cir. 2010).

87. As applied to § 926A-qualifying travel, the Disclosure Mandate imposes additional state-law conditions and criminal penalties that interfere with Congress's purpose of protecting safe passage from burdensome and inconsistent state restrictions.

88. Plaintiff intends to immediately resume lawful public carriage and transportation of his handgun in the manner described in this Complaint upon entry of injunctive relief. Until such relief is granted, Plaintiff must continue to refrain from constitutionally protected conduct to avoid criminal prosecution under the challenged statute. This ongoing deterrence imposes a present and continuing constitutional injury that will persist each day the statute remains enforceable against Plaintiff.

89. The Mandates operate in sequence during an ordinary roadside stop. If Plaintiff cannot immediately display a physical permit card, § 2C:58-4.4(b)(2) treats that temporary nonproduction as criminal conduct even though Plaintiff remains validly licensed and his status may be confirmed through ordinary law-enforcement channels. That criminalized omission can then furnish the asserted basis for escalating the encounter, prolonging the stop, or demanding firearm turnover and inspection under § 2C:58-4.4(c), thereby attaching compelled production and compelled seizure to a routine traffic encounter involving an unloaded, locked, and inaccessible handgun.

90. In Plaintiff's as-applied circumstances, the statutory scheme imposes criminal consequences untethered to misuse, accessibility, or individualized dangerousness. Plaintiff's intended conduct involves a handgun that is unloaded, secured in a locked container, vehicle safe, or trunk, and not readily accessible to any occupant during travel. Yet the Mandates attach escalating criminal penalties and compulsory roadside duties to that peaceable conduct based on regulatory noncompliance alone, rather than any historically recognized finding that Plaintiff is dangerous or that the firearm is immediately available for use.

91. Defendants have never disavowed enforcement of N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), or (c) against permit holders engaged in the type of secured vehicle transport described in this Complaint. Public guidance issued by

the New Jersey State Police instructs permit holders that disclosure and permit display are mandatory if stopped while carrying or traveling with a handgun. Those instructions confirm that the Mandates are intended to apply during routine traffic stops and other ordinary law-enforcement encounters.

92. The Attorney General and the New Jersey State Police have issued statewide training materials directing law-enforcement officers that, if a permit holder is stopped or detained while carrying or traveling with a handgun, the individual must immediately disclose the presence of the firearm and must display a permit. These materials are directed to all law-enforcement agencies and certified firearms instructors and reflect the State's official enforcement posture. The same materials reference ongoing federal litigation, including *Koons/Siegel v. Platkin*, while continuing to instruct enforcement of the challenged mandates. This confirms that enforcement is deliberate, statewide, and maintained notwithstanding constitutional challenges.

93. Plaintiff regularly drives on public roads in New Jersey. Like all drivers, Plaintiff is subject to routine traffic stops, accident investigations, and other ordinary police encounters. During such encounters Plaintiff may be required to stop his vehicle and interact with law-enforcement officers while engaged in the type of firearm transport described in this Complaint.

94. During a routine traffic stop, drivers are ordinarily required to follow officer instructions regarding identification, vehicle documentation, and other compliance procedures. The statute requires “immediate” firearm disclosure but provides no guidance regarding timing relative to officer commands. As a result, a permit holder may be forced to choose between interrupting an officer, delaying disclosure, or waiting for instructions—any of which may later be characterized as criminally insufficient timing.

95. Based on Plaintiff’s professional experience providing firearms instruction to both civilians and law-enforcement personnel, Plaintiff understands that the mention of a firearm during a vehicle stop commonly alters officer response posture. Such responses may include commands for occupants to exit the vehicle, heightened officer caution, or temporary seizure of firearms. Because Plaintiff’s firearm would be unloaded, locked, and not readily accessible during transport, compelled disclosure itself can transform an otherwise routine encounter into a heightened law-enforcement event.

96. The Mandates apply regardless of whether a firearm is accessible or capable of immediate use. Plaintiff’s intended transport involves an unloaded handgun secured in a locked container, vehicle safe, or trunk and not readily accessible during travel. Nevertheless, the statute imposes the same criminal

disclosure and turnover duties on Plaintiff as it would on a person carrying a loaded handgun on the person.

VII. CAUSES OF ACTION

COUNT I

Second Amendment — (Facial and As-Applied) (42 U.S.C. § 1983)

97. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 96, as if fully set forth herein.

98. Defendants, acting under color of state law, enforce N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c), which impose criminally enforceable duties on individuals engaged in lawful public carriage, including the transport of a handgun in a motor vehicle. Defendants also enforce N.J. Stat. Ann. § 2C:58-4.5(a), which makes concealed public carry a fourth-degree crime unless the person possesses on the person a valid carry permit and proof of liability insurance.

99. The Second Amendment protects the right of law-abiding citizens to keep and bear arms for self-defense, including carriage in public and movement through public space. See *District of Columbia v. Heller*, 554 U.S. 570, 582–84 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24–26, 30–33 (2022).

100. N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) burden conduct covered by the plain text of the Second Amendment by conditioning the exercise of the right to bear arms on compelled disclosure, permit display, and firearm

surrender during stops and detentions. The conduct regulated by these provisions—public carriage of a firearm during ordinary travel—falls squarely within the Second Amendment’s plain text, and these provisions condition that conduct on compelled actions under threat of criminal penalty. Conditioning the exercise of the right to bear arms on compelled conduct under threat of criminal penalty constitutes a burden on the right itself, even where the law does not directly prohibit possession or carriage.

101. Because N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) regulate conduct covered by the Second Amendment’s plain text, the burden shifts to Defendants to demonstrate that the challenged requirements are consistent with this Nation’s historical tradition of firearm regulation. As applied to Plaintiff’s conduct—transporting an unloaded, secured, and inaccessible handgun in a motor vehicle—these provisions impose criminal penalties untethered to any historical tradition and absent any individualized finding of dangerousness. More broadly, the challenged provisions impose categorical criminal conditions on the exercise of the right to bear arms without regard to accessibility, dangerousness, or misuse. In defending materially similar burdens on vehicle-based public carriage, the State was not able to provide a historically grounded analogue comparable in burden and justification. See *Koons v. Platkin*, 673 F. Supp. 3d 515, 605–06 (D.N.J. 2023). The same defect is present here. See *New York State Rifle & Pistol Ass’n v. Bruen*,

597 U.S. 1, 24–26, 29–30 (2022); *United States v. Rahimi*, 602 U.S. 680, 687–92 (2024).

102. N.J. Stat. Ann. § 2C:58-4.5(a) burdens conduct covered by the Second Amendment’s plain text because Plaintiff seeks to carry a handgun concealed on or about his person in public for lawful self-defense. The Second Amendment protects the right of law-abiding citizens to keep and bear arms for self-defense, including public carry. *District of Columbia v. Heller*, 554 U.S. 570, 582–84 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 24–26, 30–33 (2022). Conditioning public carry on continuous on-person possession of government-required papers under threat of fourth-degree prosecution burdens the exercise of the right to bear arms.

103. Section 2C:58-4.5(a) is facially unconstitutional because it imposes a categorical, criminally enforceable paper-possession condition on the exercise of public carry without a well-established and representative historical analogue. The statute applies without regard to dangerousness, misuse, brandishing, breach of the peace, individualized suspicion, officer request, or actual lack of licensure. It criminalizes the absence of on-person documentation as such.

104. Section 2C:58-4.5(a) is also unconstitutional as applied to Plaintiff because Plaintiff holds a valid New Jersey permit to carry and intends to carry a

handgun concealed on or about his person in public for lawful self-defense, but reasonably fears fourth-degree criminal prosecution if he temporarily lacks on-person proof of his valid permit or required insurance because of loss, theft, damage, technological failure, inadvertent omission, or temporary inaccessibility.

105. Bruen’s discussion of objective shall-issue licensing regimes does not save § 2C:58-4.5(a). Plaintiff does not challenge New Jersey’s separate unlicensed-handgun statute, N.J. Stat. Ann. § 2C:39-5(b), or New Jersey’s ability to administer carry-permit applications under objective, constitutionally valid standards. Plaintiff challenges the separate criminal paper-possession condition imposed by § 2C:58-4.5(a), which operates in addition to New Jersey’s unlicensed-carry penalties and converts documentation nonpossession into fourth-degree criminal exposure. See Bruen, 597 U.S. at 38 n.9.

106. Defendants bear the burden of demonstrating that N.J. Stat. Ann. § 2C:58-4.5(a) is consistent with the Nation’s historical tradition of firearm regulation. Bruen, 597 U.S. at 24–26, 30–33; United States v. Rahimi, 602 U.S. 680, 691–93 (2024). Historical regulations aimed at affray, going armed to the terror of the people, surety proceedings, militia inspection, hunting trespass, gunpowder storage, or concealed-carry manner restrictions are not relevantly similar in how or why they burden the right. None imposed fourth-degree criminal

punishment on a peaceable arms-bearer solely for carrying concealed in public without continuous on-person possession of carry credentials or insurance proof.

107. N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c), and N.J. Stat. Ann. § 2C:58-4.5(a), are unconstitutional on their face because they impose categorical criminal conditions on the exercise of a fundamental right without regard to accessibility, dangerousness, misuse, breach of the peace, or any relevant historical analogue. See *Bruen*, 597 U.S. at 47–49; *Rahimi*, 602 U.S. at 691–93.

108. Accordingly, N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c), and N.J. Stat. Ann. § 2C:58-4.5(a), violate the Second Amendment both facially and as applied. In the alternative, even if the Court concludes that § 2C:58-4.5(a) has one or more constitutionally permissible applications, § 2C:58-4.5(a) remains unconstitutional as applied to Plaintiff and similarly situated valid permit holders whose licensure exists, remains valid, and is verifiable, but who temporarily lack on-person proof of a valid carry permit or proof of required liability insurance.

COUNT II

Fourth Amendment— (Facial and As-Applied) (42 U.S.C. § 1983)

109. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 108, as if fully set forth herein.

110. The Fourth Amendment protects against unreasonable searches and seizures. A traffic stop is a seizure limited in scope and duration to its mission. See *Rodriguez v. United States*, 575 U.S. 348, 354–57 (2015).

111. N.J. Stat. Ann. § 2C:58-4.4(c) authorizes and compels the seizure and inspection of a lawfully possessed firearm during a detention, including routine traffic stops, without requiring individualized suspicion that the individual is armed and presently dangerous or that the firearm is within immediate control.

112. As applied to Plaintiff's conduct—where the firearm is unloaded, secured, and not readily accessible—the compelled turnover constitutes an unreasonable seizure under *Terry v. Ohio*, 392 U.S. 1, 30 (1968), *Arizona v. Johnson*, 555 U.S. 323, 332 (2009), and *Michigan v. Long*, 463 U.S. 1032, 1049–50 (1983).

113. N.J. Stat. Ann. § 2C:58-4.4(c) is also facially unconstitutional because it authorizes suspicionless seizures untethered to individualized dangerousness and invites impermissible extension of traffic stops beyond their lawful mission. See *Rodriguez*, 575 U.S. at 354–57.

114. Accordingly, N.J. Stat. Ann. § 2C:58-4.4(c) violates the Fourth Amendment both facially and as applied.

COUNT III
Fourteenth Amendment— (Due Process / Vagueness) (42 U.S.C. § 1983)

115. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 114, as if fully set forth herein.

116. The Due Process Clause prohibits vague criminal laws that fail to provide fair notice and invite arbitrary enforcement. See *Kolender v. Lawson*, 461

U.S. 352, 357–58 (1983); *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

117. N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) impose criminal liability based on undefined terms, including “immediately” and “criminal investigation,” and provide no objective standards governing compliance during police encounters.

118. As applied to Plaintiff’s conduct, these provisions expose him to criminal liability based on after-the-fact determinations of timing and officer discretion, chilling constitutionally protected conduct.

119. The statute is also unconstitutional under *Lambert v. California*, 355 U.S. 225, 228–30 (1957), because it criminalizes passive omissions—such as failure to display a permit—where the underlying conduct is otherwise lawful and the statute provides no meaningful opportunity to comply.

120. N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) are facially unconstitutional because they invite arbitrary enforcement and fail to establish minimal guidelines to govern law enforcement.

121. Accordingly, N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) violate the Fourteenth Amendment both facially and as applied.

SUPPLEMENTAL CLAIMS (INDEPENDENT AND ALTERNATIVE BASES FOR RELIEF)

COUNT IV

First Amendment — Compelled Speech (As Applied) (42 U.S.C. § 1983)

122. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 121, as if fully set forth herein.

123. New Jersey makes it a fourth-degree crime for a permit holder, when stopped or detained while traveling with a handgun in a motor vehicle, to “immediately disclose” that a handgun is stored in the vehicle. N.J. Stat. Ann. § 2C:58-4.4(b)(1). That requirement compels Plaintiff to speak during law-enforcement encounters as a condition of exercising his right to bear arms and to travel while lawfully transporting an unloaded, secured, and inaccessible handgun. Compelled speech is presumptively unconstitutional absent narrow tailoring to a sufficiently strong justification. See *Wooley*, 430 U.S. at 714; *Barnette*, 319 U.S. at 642. Plaintiff does not challenge an officer’s authority to ask questions or to take constitutionally justified safety measures. Plaintiff challenges the State’s decision to criminalize silence and to impose an undefined timing mandate (“immediately”) backed by criminal penalties in routine encounters where less restrictive alternatives exist.

124. The Disclosure Mandate compels a specific message about lawful firearm possession that Plaintiff would not otherwise convey. It criminalizes

silence based solely on Plaintiff’s exercise of constitutionally protected conduct. See *Wooley*, 430 U.S. at 714; *Barnette*, 319 U.S. at 642; *Riley*, 487 U.S. at 795–97; *303 Creative*, 600 U.S. at 597–603; *NIFLA v. Becerra*, 585 U.S. 755, 766–68 (2018).

125. The compelled disclosure is content-based, triggered by Plaintiff’s lawful conduct and permit status, and is not narrowly tailored to any individualized, articulable officer-safety need. The statute applies categorically regardless of firearm accessibility or the reason for the stop. See *Hurley*, 515 U.S. at 573.

126. The undefined requirement that disclosure be “immediate,” coupled with criminal liability, grants officers unfettered discretion to decide after the fact whether Plaintiff’s timing was sufficient. That design chills protected conduct and invites arbitrary enforcement. *Grayned*, 408 U.S. at 108–09; *Kolender*, 461 U.S. at 357–58.

127. The compelled disclosure alters Plaintiff’s lawful conduct, chills constitutional rights, and forces Plaintiff to choose between compelled speech and criminal punishment during routine stops. That coercion inflicts a present and ongoing injury. See *Ashcroft*, 535 U.S. at 244–45.

128. This claim is pleaded independently, in the alternative, and without waiver of any other claim or theory of relief, and does not depend on the success of

Plaintiff's Second Amendment claims. See *Wooley v. Maynard*, 430 U.S. 705, 714 (1977); *Riley v. Nat'l Fed'n of the Blind*, 487 U.S. 781, 795–97 (1988).

COUNT V

Fourteenth Amendment — Equal Protection (42 U.S.C. § 1983)

129. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 128, as if fully set forth herein.

130. Defendants, acting under color of state law, enforce N.J. Stat. Ann. § 2C:58-4.4(b)(1), which creates a classification that turns on permit status among individuals who are otherwise identically situated with respect to lawful firearm possession, transport, and accessibility. Plaintiff and similarly situated permit holders are law-abiding citizens who may lawfully possess and transport firearms that are unloaded, secured, and not readily accessible during vehicle travel. Other individuals may lawfully transport firearms under identical conditions without being subject to the challenged mandates.

131. As applied to secured vehicle transport, permit holders and other lawful firearm transporters are indistinguishable with respect to dangerousness, accessibility, and risk. Nevertheless, the statute imposes criminally enforceable duties on permit holders alone. This differential treatment is not based on conduct, accessibility, or misuse, but solely on permit status.

132. The challenged classification does not regulate based on accessibility, dangerousness, or misuse, but solely on permit status among individuals who are

otherwise identically situated with respect to lawful firearm transport. As applied to secured vehicle transport, permit holders and other lawful firearm transporters are indistinguishable with respect to risk, yet the statute imposes heightened criminal obligations on permit holders alone. Because this classification burdens the exercise of fundamental constitutional rights—including the right to bear arms and the right to be free from unreasonable seizures—it warrants heightened scrutiny and cannot be justified by generalized or speculative safety concerns. See *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 446–50 (1985); *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992); *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Hill v. Borough of Kutztown*, 455 F.3d 225, 239 (3d Cir. 2006).

133. In the alternative, Plaintiff satisfies the requirements of a class-of-one claim because he has been intentionally treated differently from others similarly situated without a rational basis.

134. This claim is pleaded independently, in the alternative, and without waiver of any other claim or theory of relief.

COUNT VI

Supremacy Clause — Conflict and Obstacle Preemption (FOPA as Applied)

135. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 134, as if fully set forth herein.

136. Congress enacted 18 U.S.C. § 926A to establish a uniform, nationwide safe-passage rule protecting law-abiding firearm owners from arrest

and prosecution during interstate transportation when the firearm is unloaded and not readily accessible, and when the traveler may lawfully possess the firearm at both the origin and destination. See *Revell*, 598 F.3d at 136–37.

137. As applied to § 926A-qualifying travel, the Disclosure Mandate stands as an obstacle to Congress’s objectives by imposing a state-law criminal condition—immediate compelled disclosure during a stop or detention—at the precise moment Congress sought to shield travelers from discretionary arrest and prosecution. By attaching criminal liability to silence during federally protected transport, the statute recreates the risk of arrest and criminal exposure that § 926A was enacted to eliminate.

138. Under the Supremacy Clause, state laws that conflict with federal law or stand as an obstacle to the accomplishment and execution of Congress’s full purposes and objectives are preempted. Plaintiff seeks only prospective equitable relief against state officers to prevent ongoing enforcement of a state criminal condition that is preempted as applied. *Arizona v. United States*, 567 U.S. 387, 399 (2012); *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 98 (1992); *Verizon Md. Inc. v. Pub. Serv. Comm’n of Md.*, 535 U.S. 635, 642 (2002); *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 96 n.14 (1983); *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326–28 (2015); *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

139. Plaintiff's Supremacy Clause theory is limited to circumstances of direct and positive conflict, consistent with 18 U.S.C. § 927.

140. This claim is pleaded independently, in the alternative, and without waiver of any other claim or theory of relief.

VIII. PRELIMINARY INJUNCTION CONSIDERATIONS / IRREPARABLE HARM

141. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 140, as if fully set forth herein.

142. Plaintiff pleads the following allegations to demonstrate the immediacy, continuing nature, and irreparability of the constitutional injuries supporting Plaintiff's pending request for preliminary injunctive relief as to N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2), and prospective equitable relief generally. Plaintiff does not presently seek preliminary injunctive relief under N.J. Stat. Ann. § 2C:58-4.4(c) or N.J. Stat. Ann. § 2C:58-4.5(a).

143. The loss or burdening of constitutional rights constitutes irreparable injury as a matter of law. *Elrod*, 427 U.S. at 373 (1976).

144. The loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury. *Roman Cath. Diocese*, 592 U.S. at 19; *Elrod*, 427 U.S. at 373. The compelled choice between silence and criminal liability inflicts immediate and ongoing First Amendment harm independent of any completed prosecution.

145. The ongoing chilling of Plaintiff's Second Amendment right to engage in lawful public carriage, including secured transport incidental thereto, constitutes present constitutional injury not compensable by money damages. See *Ezell*, 651 F.3d at 699; *Reilly*, 858 F.3d at 179.

146. The threat of arrest, prosecution, and criminal record exposure for a fourth-degree offense imposes reputational, professional, and liberty harms that cannot be undone by subsequent monetary relief.

147. Absent injunctive relief, Plaintiff must continuously forgo constitutionally protected conduct to avoid criminal exposure, a coercive restraint that itself constitutes irreparable harm.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Dwight D. Mitchell respectfully requests that this Court:

148. Declare that N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) violate the Second Amendment both facially and as applied, including as applied to Plaintiff's lawful public carriage of a handgun stored in a motor vehicle that is unloaded, secured, and not readily accessible.

149. Declare that N.J. Stat. Ann. § 2C:58-4.5(a) violates the Second Amendment both facially and as applied by imposing fourth-degree criminal

liability for concealed public carry unless the person possesses on the person a valid carry permit and proof of liability insurance.

150. Declare that N.J. Stat. Ann. § 2C:58-4.4(c) violates the Fourth Amendment both facially and as applied by authorizing seizure and inspection of lawfully possessed firearms without an individualized basis to believe a person is armed and presently dangerous or has immediate access to a weapon.

151. Declare that N.J. Stat. Ann. § 2C:58-4.4(b)(1), (b)(2), and (c) violate the Fourteenth Amendment both facially and as applied because they impose criminal liability based on undefined terms that fail to provide fair notice and invite arbitrary enforcement.

152. Declare that N.J. Stat. Ann. § 2C:58-4.4(b)(1) violates the First Amendment as applied by compelling speech during routine law enforcement encounters under threat of criminal penalty.

153. Declare that N.J. Stat. Ann. § 2C:58-4.4(b)(1) violates the Equal Protection Clause as applied.

154. Declare that N.J. Stat. Ann. § 2C:58-4.4(b)(2) violates the Second and Fourteenth Amendments as applied where a valid permit holder is unable to immediately display a physical permit during a routine roadside encounter notwithstanding valid licensure.

155. Declare that N.J. Stat. Ann. § 2C:58-4.4(c) violates the Fourth and Second Amendments as applied by compelling firearm turnover and inspection during routine stops without an independent lawful basis.

156. Declare that N.J. Stat. Ann. § 2C:58-4.4(b)(1)–(2), as applied to interstate transportation protected under 18 U.S.C. § 926A, are preempted to the extent they impose criminal liability in a manner that creates a direct and positive conflict with federal safe-passage protections.

157. Temporarily, preliminarily, and permanently enjoin Defendants, their officers, agents, employees, and all persons acting in concert with them from enforcing N.J. Stat. Ann. § 2C:58-4.4(b)(1) and (b)(2) against Plaintiff as applied to lawful public carriage by motor vehicle where the handgun is unloaded, secured in a locked container, vehicle safe, or trunk, and not readily accessible, including during routine traffic stops where enforcement is based on: (a) Plaintiff's failure to immediately disclose that he is carrying a handgun or that a handgun is stored in the vehicle; or (b) Plaintiff's temporary inability to immediately display a physical permit, where Plaintiff holds a valid permit and temporary nonproduction of the physical permit is the only asserted basis for treating Plaintiff as unlawfully carrying or for prolonging the stop beyond its lawful mission absent independent reasonable suspicion or another lawful basis.

158. At final judgment, permanently enjoin Defendants, their officers, agents, employees, and all persons acting in concert with them from enforcing N.J. Stat. Ann. § 2C:58-4.5(a). Plaintiff does not presently seek temporary or preliminary injunctive relief under this paragraph.

159. In the alternative, at final judgment, permanently enjoin Defendants, their officers, agents, employees, and all persons acting in concert with them from enforcing N.J. Stat. Ann. § 2C:58-4.5(a) against Plaintiff and similarly situated valid permit holders whose licensure exists, remains valid, and is verifiable, but who temporarily lack on-person proof of a valid carry permit or proof of required liability insurance because of loss, theft, damage, technological failure, inadvertent omission, or temporary inaccessibility.

160. Grant such declaratory and, at final judgment, permanent injunctive relief, both facially and as applied, as is necessary to remedy the constitutional violations alleged in Counts I through III, including the Second Amendment violations alleged against N.J. Stat. Ann. § 2C:58-4.5(a). Plaintiff does not presently seek preliminary injunctive relief under N.J. Stat. Ann. § 2C:58-4.5(a).

161. Award Plaintiff allowable costs under Fed. R. Civ. P. 54(d) and such other relief as the Court deems just and proper.

Plaintiff files this Complaint pro se while seeking to retain counsel.

Respectfully submitted,

/s/ Dwight D. Mitchell
Dwight D. Mitchell
Plaintiff Pro Se
20 Summershade Circle
Piscataway, NJ 08854
ddm@maa-imcs.com

Dated: May 18, 2026

Certification Pursuant to Local Civil Rule 11.2

I certify under 28 U.S.C. § 1746 that, to the best of my knowledge, the matter in controversy is not the subject of any other pending action in any court, arbitration, or administrative proceeding, other than this action. I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 18, 2026

/s/ Dwight D. Mitchell
Dwight D. Mitchell