

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

LEAH ELIZABETH BARAN)
1673 Henryton Road)
Mariottsville, MD 21104)
HOWARD COUNTY RESIDENT)

LAWRENCE E. MCCLAIN)
14912 Falls Road)
Butler, Maryland 21023)
BALTIMORE COUNTY RESIDENT)

DOUGLAS W. HANSEN)
3112 Remington Avenue)
Baltimore, Maryland 21211)
BALTIMORE CITY RESIDENT)

Civil Action No. 1:17-cv-253

STEPHEN SCHMIDT)
10532 Patuxent Ridge Way)
Laurel, Maryland 20723)
HOWARD COUNTY RESIDENT)

DANIEL J. CARLIN-WEBER)
2011 Frames Rd.)
Dundalk, MD 21222)
BALTIMORE COUNTY RESIDENT)

JUSTIN FONTAINE)
10310 Hickory Ridge Road, Apt. 237)
Columbia, Maryland 21044)
HOWARD COUNTY RESIDENT)

Plaintiffs,)

v.)

COUNTY OF BALTIMORE, MARYLAND)

Serve:)

KEVIN KAMENETZ)
County Executive)
Old Courthouse Mezzanine, MS 2 MO1A)
400 Washington Avenue)
Towson, Maryland 21204)

JIM JOHNSON)
Chief, Baltimore County Police)
Public Safety Building)
700 East Joppa Road)
Towson, Maryland 21286)

COUNTY OF HOWARD, MARYLAND)

Serve:)

ALLAN H. KITTLEMAN)
County Executive)
George Howard Building)
3430 Court House Dr.)
Ellicott City, Maryland 21043)

GARY L. GARDNER)
Chief, Howard County Police Department)
3410 Court House Dr.)
Ellicott City, Maryland 21043)

CITY OF BALTIMORE, MARYLAND)

Serve:)

CATHERINE PUGH, MAYOR)
250 City Hall)
100 N. Holliday Street)
Baltimore. MD 21202)

KEVIN DAVIS)
 Commissioner, Baltimore Police Department))
 601 E. Fayette Street)
 Baltimore, Maryland 21202)
)
 Defendants.)
 _____)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COME NOW Plaintiffs Leah Elizabeth Baran, Lawrence McClain, Douglas S. Hansen, Stephen Schmidt, Daniel J. Carlin-Weber and Jon Fontaine, by and through their undersigned counsel, and complain of the Defendants as follows:

THE PARTIES

1. Plaintiff Leah Elizabeth Baran is a natural person and a citizen of the United States and of the State of Maryland. She resides in Howard County, Maryland.

2. Plaintiff Lawrence E. McClain is a natural person and a citizen of the United States and of the State of Maryland. He resides in Baltimore County, Maryland.

3. Plaintiff Douglas W. Hansen is a natural person and a citizen of the United States and of the State of Maryland. He resides in the City of Baltimore, Maryland.

4. Plaintiff Stephen Schmidt is a natural person and a citizen of the United States and of the State of Maryland. He resides in Howard County, Maryland.

5. Plaintiff Daniel J. Carlin-Weber is a natural person and a citizen of the United States and of the State of Maryland. He resides in Baltimore County, Maryland.

6. Plaintiff Jon Fontaine is a natural person and a citizen of the United States and of the State of Maryland. He resides in Howard County, Maryland.

7. Defendant Baltimore County is a political subdivision of the State of Maryland.

8. Defendant Howard County is a political subdivision of the State of Maryland.

9. Defendant Baltimore City is a political subdivision of the State of Maryland.

10. Defendant Jim Johnson is the Chief of the Baltimore County Police Department. Defendant Johnson is responsible for executing and administering Baltimore County's laws, customs, practices, and policies at issue in this lawsuit; Defendant Johnson is sued in both his individual and official capacities.

11. Defendant Gary L. Gardner is the Chief of the Howard County Police Department. Defendant Gardner is responsible for executing and administering Howard County's laws, customs, practices, and policies at issue in this lawsuit; Defendant Gardner is sued in both his individual and official capacities.

12. Defendant Kevin Davis is the Commissioner of the Baltimore City Police Department. Defendant Davis is responsible for executing and administering Baltimore City's laws, customs, practices, and policies at issue in this lawsuit; Defendant Davis is sued in both his individual and official capacities.

JURISDICTION AND VENUE.

13. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 2201, 2202 and 42 U.S.C. § 1983 and § 1988.

14. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

STATEMENT OF FACTS.

The Second Amendment.

15. The Second Amendment to the United States Constitution provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed."

16. The Second Amendment guarantees individuals a fundamental right to keep and carry arms for self-defense and defense of others in the event of a violent confrontation. *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. Chicago*, 561 U.S. 742 (2010); *Caetano v. Massachusetts*, 577 U.S. ___, 136 S.Ct. 1027 (2016). The Second Amendment applies to the State of Maryland via the due process clause of the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

17. Arms are ““weapons of offence, or armour of defence.’ 1 Dictionary of the English Language 107 (4th ed.) ... [They] are anything that a man [or woman] wears for his defense, or takes into his hands, or uses in wrath to cast at or strike another.’ 1 A New and Complete Law Dictionary (1771).” *District of Columbia v. Heller*, 554 U.S. at 581.

18. The Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding. *Heller*, 554 U.S. at 582; *Caetano*, 577 U.S. at ___, 136 S.Ct. at 1028 (*per curium*).

19. Under the Second Amendment, and subject to Maryland law, Baltimore and Howard Counties and Baltimore City retain the ability presumptively to regulate the manner of carrying arms and may prohibit certain arms in narrowly defined sensitive places, prohibit the carrying of arms that are not within the scope of Second Amendment’s protection such as unusually dangerous arms, and disqualify specific, particularly dangerous individuals from carrying arms. *See Heller*, 554 U.S. at 627.

20. Given the decision in *Heller*, Baltimore County, Howard County and Baltimore City may not completely ban the keeping and bearing of arms for self-defense that are not unusually dangerous, deny individuals the right to carry arms in non-sensitive places, deprive individuals of the right to keep or carry arms in an arbitrary and capricious manner, nor impose regulations on the right to keep and

carry arms that are otherwise inconsistent with the Second Amendment. *See Caetano v. Massachusetts*, 577 U.S. ___, 136 S.Ct. 1027; *Heller v. District of Columbia*, 801 F.3d 264 (D.C. Cir. 2015); *Palmer v. District of Columbia*, 59 F.Supp.3d 173 (2014).

Tasers.

21. Tasers are arms in common use for self-defense by civilians as well as by law enforcement.

22. Tasers are manufactured and sold by Taser International, Inc.

23. A Taser is an electronic control device (“ECD”) that uses replaceable cartridges containing inert, compressed nitrogen to fire two small probes that are attached to insulated conductive wires. In the models generally marketed to non-law enforcement persons, the conductive wires are 15 feet (4.5 meter) in length.

24. Taser models generally marketed to law enforcement agencies use conductive wires with lengths up to 25 feet in length.

25. The probes are designed to penetrate the clothing of an attacker and imbed in the attacker’s skin. Electrical energy is sent over the wires into the probes. The charge is transmitted between the two probes and is designed to disrupt the sensory and motor functions to inhibit muscular control of an attacker.

26. With a Taser exposure, the attacker is momentarily incapacitated to allow the person attacked to escape and call for law enforcement assistance, or in

the case of a law enforcement officer, to allow for the apprehension of the suspect without further risk of injury to the officer or the suspect.

27. The Taser's electronic charge lasts from five to thirty seconds depending on whether the civilian or the law enforcement model is employed.

28. The most commonly employed civilian Taser is a one-shot device with a 30 second electrical charge. Once fired, the device can still be used as a direct contact stun device in the event of a missed shot or in the event of multiple assailants.

29. Taser International also manufactures Taser devices having the capacity for multiple shots. These multiple shot devices are commonly used by law enforcement personnel in the performance of their duties.

30. Tasers have several advantages over other non-lethal means of self-defense, such as capsicum-based (self-defense) sprays or contact weapons.

31. First, self-defense sprays must be administered generally within several feet of an assailant while a civilian model Taser can be deployed within 15 feet. The closer distance the assailant must be to a potential victim for the victim to employ a self-defense spray increases the danger to the potential victim.

32. For example, it is generally recognized by law enforcement that an assailant wielding a contact weapon such as a knife or a club can be a lethal threat at distances of 21 feet or closer. *See* Dennis Tueller, *How Close is Too Close*, Police Policies Study Council, available at

http://www.theppsc.org/Staff_Views/Tueller/How.Close.htm (originally published in the March 1983 Edition of SWAT Magazine).

33. Second, pepper sprays can often be ineffectual against highly intoxicated or highly agitated assailants. *See generally* Steven M. Edwards, et al., *Evaluation of Pepper Spray*, National Institute of Justice, U.S. Dept. of Justice, Office of Justice Programs, Research in Brief (February 1997), available at <https://www.ncjrs.gov/txtfiles/162358.txt>. Tasers, on the other hand, when effectively employed, will likely stop an attack from an intoxicated or mentally disturbed attacker.

34. Third, for optimum effect, self-defense sprays should be deployed at the face of the attacker, which is a small target. The Taser is most effective when deployed at other larger parts of the body of the attacker such as the chest or back.

35. Fourth, defense sprays can end up being blown back at the victim if used in a windy environment, resulting in incapacitating the victim rather than the attacker. This is not an issue with a Taser device.

36. Likewise, Tasers have advantages over the variety of contact weapons as well such as police type batons or knives. Allowing an attacker to close to contact distance creates a high degree of danger to a potential victim.

37. Contact weapons can also be more difficult for persons of lesser strength to deploy, compared to a Taser.

38. Moreover, use of any contact weapon, such as a knife or club, carries a high degree of risk of death or serious injury to the assailant, whereas risk of death or serious bodily harm from a Taser is minimal.

39. On a related note, given that use of a knife or club qualifies as the use of deadly force, an individual using a knife or club to defend against a criminal attack, has a high legal standard to meet to sustain a claim self-defense.¹

40. Tasers have been widely used by law enforcement agencies throughout the United States and the world. More than 18,000 law enforcement agencies use the devices.

41. Studies have shown Tasers to reduce injuries to both law enforcement officers and to suspects. The United States Department of Justice found that Tasers result in fewer injuries to suspects and officers than all other means of subduing suspects.

42. In the event of deployment of a civilian Taser the device releases some 24 small confetti like tags called AFIDs which are packed into the firing mechanism. When the Taser cartridge is engaged, the AFIDs fly out of the Taser and scatter around the area where the device was utilized.

¹ One is privileged to use deadly force such as a knife or a firearm in self-defense only where one reasonably believes that he or another innocent person is in imminent danger of death or serious bodily harm. *See, e.g., State v. Faulkner*, 301 Md. 482, 485, 483 A.2d 759, 761 (1984); *Baltimore Transit Co. v. Faulkner*, 179 Md. 598, 20 A.2d 485 (1941); *Roach v. State*, 358 Md. 418, 429-30, 749 A.2d 787, 793 (2000). *See also U.S. v. Peterson*, 483 F.2d 1222, 1229-30 & nn. 42-47 (D.C. Cir. 1973) (multiple cases cited in notes).

43. The term AFID stands for Anti Felon Identification. Taser utilizes AFIDs to deter criminal misuse of its product. Taser can trace the purchaser of the device from data contained on an AFID.

44. Tasers and other electronic weapons are in common use for self-defense. The Michigan Court of Appeals found that “Hundreds of thousands of Tasers and stun guns have been sold to private citizens,” *People v. Yanna*, 297 Mich. App. 137, 144, 824 N.W. 2d 241, 245 (2012).

45. Concurring in the *per curium* reversal of the Massachusetts Supreme Judicial Court’s upholding of a ban on stun guns, Justice Alito stated, “While less popular than handguns, stun guns are widely owned and accepted as a legitimate means of self-defense across the country.” *Caetano v. Massachusetts*, 577 U.S. at ___, 136 S. Ct. at 1033 (Alito, J., concurring).

Baltimore County Law.

46. Baltimore County Code § 17-2-104(a)(2) defines an “electronic control device” as “a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of electrical current.” Baltimore County Code § 17-2-104(c)(1) provides that “A person may not use, possess, or discharge an electronic control device.” And Baltimore County Code 17-2-104(c)(2) provides that “A person may not sell, offer to sell, rent, offer to rent, transfer, or offer to transfer an electronic control device to a person.”

47. Since a Taser plainly fits within the definition of an electronic control device, Baltimore County outlaws the private possession by plaintiffs of a Taser or stun gun and prohibits acquisition of such devices.

48. The penalty for violating Baltimore County's prohibition on possession and use of Tasers or stun guns is a fine not exceeding \$1,000 or imprisonment not exceeding six months, or both. Baltimore County Code § 17-2-104(d).

Howard County Law.

49. Sec. 8.400(c) of the Howard County Code of Ordinances defines electronic weapon as: "Any instrument, 'stun-gun,' 'TASER,' or any similar device by whatever name which is designed as a weapon, capable of, or designed to be capable of, temporarily incapacitating another by the discharge of electrical current through projectile or nonprojectile means."

50. Sec. 8.404 (a), in turn provides, "It shall be unlawful for any person, firm or corporation to sell, give away, lend, rent or transfer to any individual, firm or corporation an electronic weapon within the limits of Howard County. It further shall be unlawful for any person to possess, fire, discharge or activate any electronic weapon within the limits of Howard County."

51. Inasmuch as a Taser or a stun gun is plainly defined as a prohibited electronic weapon, Howard County outlaws the private possession by plaintiffs of a Taser or stun gun and prohibits the acquisition or use of such devices.

52. The penalty for violating Howard County's prohibition on possession and use of Tasers or stun guns is a fine not exceeding \$1,000 or imprisonment not exceeding six months, or both. Howard County Code of Ordinances, Sec. 8.405.

Baltimore City Law.

53. Baltimore City Code Article 19, § 59-28(a) provides that “(1) It shall be unlawful for any person, firm, or corporation to sell, give away, lend, rent or transfer to any individual, firm, or corporation a stun gun or other electronic device by whatever name or description which discharges a non-projectile electric current within the limits of the City of Baltimore” and “(2) It further shall be unlawful for any person to possess, fire, or discharge any such stun gun or electronic device within the City.” The penalty for violation is set by § 59-28(c) as a fine of not more than \$500 or imprisonment for not longer than 60 days or both.

54. Because a Taser as well as a stun gun can discharge “a non-projectile electric current” Baltimore City outlaws the private possession and use for self-defense by plaintiffs of both Tasers and stun guns and prohibits the acquisition of such devices.

Plaintiff Leah Elizabeth Baran.

55. Plaintiff Leah Elizabeth Baran is a surviving victim of intimate partner violence. In August of 2012 a former boyfriend, Joseph Dwayne Caudill, broke into her apartment, abducted her, raped her, and attempted to kill her by strangulation

and blows to her head. He is now in prison having been convicted of rape, kidnapping and assault. His last words to her were, "If I go to prison, as soon as I get out, I am coming for you and I am going to kill you." He followed that up with a threat if she called the police, saying, "If I see a cop car on my way home, I am going to go home, get my guns, come back here, kill you, kill the police and kill myself." During his trial, her cat was killed and left in the driveway. After he went to prison, she obtained a civil judgment against him. Since that time the following has happened: her other cat was shot; her horse died from unknown causes; her tires were slashed; dead headless animals have been left at her doorsteps, and her house has been broken into in the same way her attacker broke in. She believes that he and his family and/or friends are behind what is happened to her. When he is released from prison, she is convinced he will try to make good on his threat to kill her.

56. Before the attack, she was an emergency room nurse. She lost that job as a result of the attack. She suffered traumatic brain damage and had to learn to walk again. She is still recovering from the attack, which has left her in a weakened state. Because of the attack and her weakened condition, she fears further injury from criminal violence.

57. Plaintiff Baran has been trained in firearms and holds a Handgun Qualifications License issued by the Maryland State Police. She has applied for a Maryland Wear and Carry Permit to allow her to carry a handgun for self-protection.

That application is pending as of this date. She is ready, willing and able to use deadly force to defend himself and her home from a potentially lethal attack, if necessary and unavoidable.

58. Plaintiff Baran, however, is aware that there are significant and adverse legal, financial, social and psychological ramifications of using deadly force to defend against a home invasion or personal attack. She is aware that even where use of deadly force is justified, a victim forced to use deadly force may be taken into police custody, arrested and prosecuted. She is aware that she would likely have to go to the expense of hiring an attorney to protect her rights in the criminal justice system. She is aware that she would be at the mercy of police, prosecutors and jurors who will have weeks or months to second guess a decision to use deadly force made in seconds in the face of a threatened attack.

59. Plaintiff Baran is aware that even where use of deadly force is justified, a victim may be sued by the perpetrator if the perpetrator survives, or by the perpetrator's family, if the perpetrator does not survive. The victim may have to go to the expense of hiring an attorney to defend the civil proceeding and will be at the mercy of a jury second guessing the split-second decision to use deadly force in the face of an attack.

60. Plaintiff Baran is aware that persons forced to use deadly force in their defense will likely suffer one or more types of psychological distress. *See generally,*

Alexis Artwohl, *Deadly Force Encounters, What Cops Need to Know to Mentally and Physically Prepare for and Survive a Gun Fight* (1997), pp. 79-242 (hereinafter “Artwohl”).

61. Plaintiff Baran is aware that persons forced to use deadly force in their defense will likely suffer from the withdrawal and isolation of friends and families, especially if their use of force results in the death of the perpetrator.

62. Plaintiff Baran is aware that persons forced to use deadly force in their defense will likely suffer from one or more manifestations of Post Violent Event Trauma (“PVET”). Manifestations of PVET can include sleep disturbance including sleeplessness or nightmares, sexual dysfunction or promiscuity, substance abuse, depression or malaise, appetite disturbance, social withdrawal or social ostracism, aggression or avoidance syndrome and flashbacks. *See* Artwohl.

63. Plaintiff Baran is aware of the potential legal, economic and psychological ramifications of even the justified use of deadly force to defend herself or her home against a violent criminal attack.

64. Plaintiff Baran would prefer to minimize the likelihood that she would have to resort to deadly force in the event she is forced to defend herself or her home again from a violent criminal attack.

65. In appropriate circumstances, Ms. Baran would prefer to utilize a Taser for defense of herself and her home due to its proven effectiveness and its proven record of minimizing injury to suspects and/or assailants.

66. Ms. Baran on January 2, 2017, sought to place an order with Taser International for a Taser Pulse model. A Taser International representative, however, declined the purchase, citing Howard County law which prohibited it from selling the device to a Howard County resident.

67. But for Howard County law, Ms. Baran would acquire, possess, carry and where appropriate use a Taser device to protect herself and her home from criminal attack, including in neighboring Baltimore City and Baltimore County, if it were legal to do so in those jurisdictions.

Plaintiff Lawrence E. McClain.

68. Plaintiff Lawrence E. McClain has been trained in firearms and is a firearms instructor certified by the NRA and the Maryland State Police. He is ready, willing and able to use deadly force to defend himself and his home from a potentially lethal attack, if necessary and unavoidable.

69. Plaintiff McClain, however, is aware that there are significant and adverse legal, financial, social and psychological ramifications of using deadly force to defend against a home invasion or personal attack. He is aware that even where use of deadly force is justified, a victim forced to use deadly force may be taken into

police custody, arrested and prosecuted. He is aware that he would likely have to go to the expense of hiring an attorney to protect his rights in the criminal justice system. He is aware that he would be at the mercy of police, prosecutors and jurors who will have weeks or months to second guess a decision to use deadly force made in seconds in the face of a threatened attack.

70. Mr. McClain is aware that even where use of deadly force is justified, a victim may be sued by the perpetrator if the perpetrator survives, or by the perpetrator's family, if the perpetrator does not survive. The victim may have to go to the expense of hiring an attorney to defend the civil proceeding and will be at the mercy of a jury second guessing the split-second decision to use deadly force in the face of an attack.

71. Mr. McClain is aware that persons forced to use deadly force in their defense will likely suffer one or more types of psychological distress. *See* Artwoh.

72. Mr. McClain is aware that persons forced to use deadly force in their defense will likely suffer from the withdrawal and isolation of friends and families, especially if their use of force results in the death of the perpetrator.

73. Mr. McClain is aware that persons forced to use deadly force in their defense will likely suffer from one or more manifestations of Post Violent Event Trauma ("PVET"). Manifestations of PVET can include sleep disturbance including sleeplessness or nightmares, sexual dysfunction or promiscuity, substance abuse,

depression or malaise, appetite disturbance, social withdrawal or social ostracism, aggression or avoidance syndrome and flashbacks. *See Artwohl.*

74. Mr. McClain is aware of the potential legal, economic and psychological ramifications of even the justified use of deadly force to defend himself or his home against a violent criminal attack.

75. Mr. McClain would prefer to minimize the likelihood that he would have to resort to deadly force in the event he is forced to defend himself or his home from a violent criminal attack.

76. In appropriate circumstances, Mr. McClain would prefer to utilize a Taser for defense of himself and his home due to its proven effectiveness and its proven record of minimizing injury to suspects and/or assailants.

77. Mr. McClain on January 2, 2017, sought to place an order with Taser International for a Taser Pulse model. A Taser International representative, however, declined the purchase, citing Baltimore County law, which prohibited it from selling the device to a Baltimore County resident.

78. But for Baltimore County law, Mr. McClain would acquire, possess, carry and where appropriate use a Taser device to protect himself and his home from criminal attack, including while traveling in neighboring Baltimore City and Howard County, if it were legal to do so in those jurisdictions.

Plaintiff Douglas W. Hansen.

79. Plaintiff Douglas W. Hansen has been trained in firearms and holds a Handgun Qualifications License issued by the Maryland State Police. He is ready, willing and able to use deadly force to defend himself and his home from a potentially lethal attack, if necessary and unavoidable.

80. Plaintiff Hansen, however, is aware that there are significant and adverse legal, financial, social and psychological ramifications of using deadly force to defend against a home invasion or personal attack. He is aware that even where use of deadly force is justified, a victim forced to use deadly force may be taken into police custody, arrested and prosecuted. He is aware that he would likely have to go to the expense of hiring an attorney to protect his rights in the criminal justice system. He is aware that he would be at the mercy of police, prosecutors and jurors who will have weeks or months to second guess a decision to use deadly force made in seconds in the face of a threatened attack.

81. Mr. Hansen is aware that even where use of deadly force is justified, a victim may be sued by the perpetrator if the perpetrator survives, or by the perpetrator's family, if the perpetrator does not survive. The victim may have to go to the expense of hiring an attorney to defend the civil proceeding and will be at the mercy of a jury second guessing the split-second decision to use deadly force in the face of an attack..

82. Mr. Hansen is aware that persons forced to use deadly force in their defense will likely suffer one or more types of psychological distress. *See generally*, Artwohl.

83. Mr. Hansen is aware that persons forced to use deadly force in their defense will likely suffer from the withdrawal and isolation of friends and families, especially if their use of force results in the death of the perpetrator.

84. Mr. Hansen is aware that persons forced to use deadly force in their defense will likely suffer from one or more manifestations of Post Violent Event Trauma (“PVET”). Manifestations of PVET can include sleep disturbance including sleeplessly or nightmares, sexual dysfunction or promiscuity, substance abuse, depression or malaise, appetite disturbance, social withdrawal or social ostracism, aggression or avoidance syndrome and flashbacks. *See* Artwohl.

85. Mr. Hansen is aware of the potential legal, economic and psychological ramifications of even the justified use of deadly force to defend himself or his home against a violent criminal attack.

86. Mr. Hansen would prefer to minimize the likelihood that he would have to resort to deadly force in the event he is forced to defend himself or his home from a violent criminal attack.

87. In appropriate circumstances, Mr. Hansen would prefer to utilize a Taser for defense of himself and his home due to its proven effectiveness and its proven record of minimizing injury to suspects and/or assailants.

88. Mr. Hansen on January 2, 2017, sought to place an order with Taser International for a Taser Pulse model. A Taser International representative, however, declined the purchase, citing Baltimore City law, which prohibited it from selling the device to a Baltimore City resident.

89. But for Baltimore City law, Mr. Hansen would acquire, possess, carry and where appropriate use a Taser device to protect himself and his home from criminal attack, including while traveling in neighboring Baltimore County and Howard County, if it were legal to do so in those jurisdictions.

Plaintiff Stephen Schmidt.

90. Plaintiff Stephen Schmidt has been trained in firearms. He is ready, willing and able to use deadly force to defend himself and his home from a potentially lethal attack, if necessary and unavoidable.

91. Plaintiff Schmidt, however, is aware that there are significant and adverse legal, financial, social and psychological ramifications of using deadly force to defend against a home invasion or personal attack. He is aware that even where use of deadly force is justified, a victim forced to use deadly force may be taken into police custody, arrested and prosecuted. He is aware that he would likely have to go

to the expense of hiring an attorney to protect his rights in the criminal justice system. He is aware that he would be at the mercy of police, prosecutors and jurors who will have weeks or months to second guess a decision to use deadly force made in seconds in the face of a threatened attack.

92. Mr. Schmidt is aware that even where use of deadly force is justified, a victim may be sued by the perpetrator if the perpetrator survives, or by the perpetrator's family, if the perpetrator does not survive. The victim may have to go to the expense of hiring an attorney to defend the civil proceeding and will be at the mercy of a jury second guessing in the comfort of a jury room the decision to use deadly force made in seconds in the face of an attack.

93. Mr. Schmidt is aware that persons forced to use deadly force in their defense will likely suffer one or more types of psychological distress. *See generally* Artwohl.

94. Mr. Schmidt is aware that persons forced to use deadly force in their defense will likely suffer from the withdrawal and isolation of friends and families, especially if their use of force results in the death of the perpetrator.

95. Mr. Schmidt is aware that persons forced to use deadly force in their defense will likely suffer from one or more manifestations of Post Violent Event Trauma ("PVET"). Manifestations of PVET can include sleep disturbance including sleeplessly or nightmares, sexual dysfunction or promiscuity, substance abuse,

depression or malaise, appetite disturbance, social withdrawal or social ostracism, aggression or avoidance syndrome and flashbacks. *See* Artwohl.

96. Mr. Schmidt is aware of the potential legal, economic and psychological ramifications of even the justified use of deadly force to defend himself or his home against a violent criminal attack.

97. Mr. Schmidt would prefer to minimize the likelihood that he would have to resort to deadly force in the event he is forced to defend himself or his home from a violent criminal attack.

98. In appropriate circumstances, Mr. Schmidt would prefer to utilize a Taser for defense of himself and his home due to its proven effectiveness and its proven record of minimizing injury to suspects and/or assailants.

99. Mr. Schmidt on January 2, 2017, sought to place an order with Taser International for a Taser Pulse model. A Taser International representative, however, declined the purchase, citing Howard County law, which prohibited it from selling the device to a Howard County resident.

100. But for Howard County law, Mr. Schmidt would acquire, possess, carry and where appropriate use a Taser device to protect himself and his home from criminal attack, including while traveling in neighboring Baltimore County and Baltimore City, if it were legal to do so in those jurisdictions.

Plaintiff Daniel J. Carlin-Weber.

101. Plaintiff Daniel J. Carlin-Weber has been trained in firearms and holds a Handgun Qualifications License issued by the Maryland State Police. He is ready, willing and able to use deadly force to defend himself and his home from a potentially lethal attack, if necessary and unavoidable.

102. Plaintiff Carlin-Weber, however, is aware that there are significant and adverse legal, financial, social and psychological ramifications of using deadly force to defend against a home invasion or personal attack. He is aware that even where use of deadly force is justified, a victim forced to use deadly force may be taken into police custody, arrested and prosecuted. He is aware that he would likely have to go to the expense of hiring an attorney to protect his rights in the criminal justice system. He is aware that he would be at the mercy of police, prosecutors and jurors who will have weeks or months to second guess a decision to use deadly force made in seconds in the face of a threatened attack.

103. Mr. Carlin-Weber is aware that even where use of deadly force is justified, a victim may be sued by the perpetrator if the perpetrator survives, or by the perpetrator's family, if the perpetrator does not survive. The victim may have to go to the expense of hiring an attorney to defend the civil proceeding and will be at the mercy of a jury second guessing in the comfort of a jury room the decision to use deadly force made in seconds in the face of an attack.

104. Mr. Carlin-Weber is aware that persons forced to use deadly force in their defense will likely suffer one or more types of psychological distress. *See generally*, Artwohl.

105. Mr. Carlin-Weber is aware that persons forced to use deadly force in their defense will likely suffer from the withdrawal and isolation of friends and families, especially if their use of force results in the death of the perpetrator.

106. Mr. Carlin-Weber is aware that persons forced to use deadly force in their defense will likely suffer from one or more manifestations of Post Violent Event Trauma (“PVET”). Manifestations of PVET can include sleep disturbance including sleeplessly or nightmares, sexual dysfunction or promiscuity, substance abuse, depression or malaise, appetite disturbance, social withdrawal or social ostracism, aggression or avoidance syndrome and flashbacks. *See* Artwohl.

107. Mr. Carlin-Weber is aware of the potential legal, economic and psychological ramifications of even the justified use of deadly force to defend himself or his home against a violent criminal attack.

108. Mr. Carlin-Weber would prefer to minimize the likelihood that he would have to resort to deadly force in the event he is forced to defend himself or his home from a violent criminal attack.

109. In appropriate circumstances, Mr. Carlin-Weber would prefer to utilize a Taser for defense of himself and his home due to its proven effectiveness and its proven record of minimizing injury to suspects and/or assailants.

110. Mr. Carlin-Weber on January 2, 2017, sought to place an order with Taser International for a Taser Pulse model. A Taser International representative, however, declined the purchase, citing Baltimore County law, which prohibited it from selling the device to a Howard County resident.

111. But for Baltimore County law, Mr. Carlin-Weber would acquire, possess, carry and where appropriate use a Taser device to protect himself and his home from criminal attack, and would use the device for self-defense when traveling in neighboring Howard County and Baltimore City were it legal to do so.

Plaintiff Justin Fontaine.

112. Plaintiff Justin Fontaine has been trained in firearms and holds a Handgun Qualifications License issued by the Maryland State Police. He is ready, willing and able to use deadly force to defend himself and his home from a potentially lethal attack, if necessary and unavoidable.

113. Plaintiff Fontaine, however, is aware that there are significant and adverse legal, financial, social and psychological ramifications of using deadly force to defend against a home invasion or personal attack. He is aware that even where use of deadly force is justified, a victim forced to use deadly force may be taken into

police custody, arrested and prosecuted. He is aware that he would likely have to go to the expense of hiring an attorney to protect his rights in the criminal justice system. He is aware that he would be at the mercy of police, prosecutors and jurors who will have weeks or months to second guess a decision to use deadly force made in seconds in the face of a threatened attack.

114. Mr. Fontaine is aware that even where use of deadly force is justified, a victim may be sued by the perpetrator if the perpetrator survives, or by the perpetrator's family, if the perpetrator does not survive. The victim may have to go to the expense of hiring an attorney to defend the civil proceeding and will be at the mercy of a jury second guessing in the comfort of a jury room the decision to use deadly force made in seconds in the face of an attack.

115. Mr. Fontaine is aware that persons forced to use deadly force in their defense will likely suffer one or more types of psychological distress. *See generally*, Artwohl.

116. Mr. Fontaine is aware that persons forced to use deadly force in their defense will likely suffer from the withdrawal and isolation of friends and families, especially if their use of force results in the death of the perpetrator.

117. Mr. Fontaine is aware that persons forced to use deadly force in their defense will likely suffer from one or more manifestations of Post Violent Event Trauma ("PVET"). Manifestations of PVET can include sleep disturbance including

sleeplessly or nightmares, sexual dysfunction or promiscuity, substance abuse, depression or malaise, appetite disturbance, social withdrawal or social ostracism, aggression or avoidance syndrome and flashbacks. *See Artwohl.*

118. Mr. Fontaine is aware of the potential legal, economic and psychological ramifications of even the justified use of deadly force to defend himself or his home against a violent criminal attack.

119. Mr. Fontaine would prefer to minimize the likelihood that he would have to resort to deadly force in the event he is forced to defend himself or his home from a violent criminal attack.

120. In appropriate circumstances, Mr. Fontaine would prefer to utilize a Taser for defense of himself and his home due to its proven effectiveness and its proven record of minimizing injury to suspects and/or assailants.

121. Mr. Fontaine on January 2, 2017, sought to place an order with Taser International for a Taser Pulse model. A Taser International representative, however, declined the purchase, citing Howard County law, which prohibited it from selling the device to a Howard County resident.

122. But for Howard County law, Mr. Fontaine would acquire, possess, carry and where appropriate use a Taser device to protect himself and his home from criminal attack, and would use the device for self-defense when traveling in neighboring Baltimore County and City were it legal to do so.

CLAIM FOR RELIEF:

**COUNT 1: U.S. CONST., AMEND. II, AMEND. XIV & 42 U.S.C. § 1983
AGAINST BALTIMORE COUNTY AND CHIEF JOHNSON.**

123. Paragraph's 1-122, above are re-alleged and restated herewith.

124. Baltimore County Code § 17-2-104 prohibits plaintiffs from acquiring, possessing and using a defensive arm in common use, i.e., a Taser in Baltimore County, Maryland. As such this provision violates plaintiffs' Second Amendment rights as applied against the Defendants by the Fourteenth Amendment's due process clause.

125. Defendants' laws, customs, practices and policies generally banning the acquisition, possession, carrying and use of Tasers and other electronic arms violates the Second Amendment to the United States Constitution, facially and as applied against the plaintiffs in this action, damaging plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to preliminary and permanent injunctive relief against such laws, customs, policies, and practices.

**COUNT 2: U.S. CONST., AMEND. II, AMEND. XIV & 42 U.S.C. § 1983
AGAINST HOWARD COUNTY AND CHIEF GARDINER.**

126. Howard County Code of Ordinances § 8.400(c) and § 8.404(a) together prohibit plaintiffs from acquiring, possessing and using a defensive arm in common use, i.e., a Taser in Howard County. As such they violate plaintiffs' Second

Amendment rights as applied against the Defendants by the Fourteenth Amendment's due process clause.

127. Defendants' laws, customs, practices and policies generally banning the acquisition, possession, carrying and use of Tasers and other electronic arms violates the Second Amendment to the United States Constitution, facially and as applied against the plaintiffs in this action, damaging plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to preliminary and permanent injunctive relief against such laws, customs, policies, and practices.

**COUNT 3: U.S. CONST., AMEND. II, AMEND. XIV & 42 U.S.C. § 1983
AGAINST BALTIMORE CITY AND COMMISSIONER DAVIS.**

128. Baltimore City Code § 59-28 prohibits plaintiffs from acquiring, possessing and using a defensive arm in common use, i.e., a Taser in the City of Baltimore. As such this section violates plaintiffs Second Amendment rights as applied against the Defendants by the Fourteenth Amendment's due process clause.

129. Defendants' laws, customs, practices and policies generally banning the acquisition, possession, carrying and use of Tasers and other electronic arms violates the Second Amendment to the United States Constitution, facially and as applied against the plaintiffs in this action, damaging plaintiffs in violation of 42 U.S.C. § 1983. Plaintiffs are therefore entitled to preliminary and permanent injunctive relief against such laws, customs, policies, and practices.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendants as follows:

1. An order preliminarily and permanently enjoining Defendants Baltimore County and Chief Johnson, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing Baltimore County Code § 17-2-104 to ban the acquisition, possession, carrying or use of Tasers and other electronic arms;

2. An order declaring that Baltimore County Code § 17-2-104, insofar as it outlaws the possession, use and sale of Tasers and other electronic arms by residents and visitors to Baltimore County violates the Second and Fourteenth Amendments to the United States Constitution.

3. An order preliminarily and permanently enjoining Defendants Howard County and Chief Gary L. Gardiner, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing Howard County Code § 8.404 to ban the acquisition, possession, carrying or use of Tasers and other electronic arms in Howard County;

4. An order declaring that Howard County Code § 8.404, insofar as it outlaws the possession, use and sale of Tasers and other electronic arms by residents and

visitors to Howard County, violates the Second and Fourteenth Amendments to the United States Constitution.

5. An order preliminarily and permanently enjoining Defendants Baltimore City and Police Commissioner Kevin Davis, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing Baltimore City Code § 59-28 to ban the acquisition, possession, carrying or use of Tasers and other electronic arms in the City of Baltimore, Maryland;

6. An order declaring that Baltimore City Code § 59-28, insofar as it outlaws the possession, use and sale of Tasers and other electronic arms within the City of Baltimore by residents and visitors violates the Second and Fourteenth Amendments to the United States Constitution.

7. Costs of suit, including attorney fees and costs pursuant to 42 U.S.C. §1988;

8. Such other declaratory relief consistent with the injunction as appropriate;
and

9. Such other further relief as the Court deems just and appropriate.

Respectfully submitted,

**LEAH ELIZABETH BARAN
LAWRENCE E. MCCLAIN
DOUGLAS W. HANSEN
STEPHEN SCHMIDT
DANIEL J. CARLIN-WEBER
JUSTIN FONTAINE**

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Dated: January 27, 2017