

## APPENDIX TABLE OF CONTENTS

### OPINIONS, ORDER, AND JUDGMENTS

Order of the Supreme Judicial Court for the Commonwealth of Massachusetts (August 5, 2020) .....	1a
Memorandum and Order Pursuant to Rule 1:28 (June 11, 2020) .....	2a
Conviction Docket (December 16, 2014) .....	11a

### OTHER DOCUMENTS

Testimony of Expert Witness Lewis Gordon (May 10, 2016) .....	17a
Indictment Assault by Means of a Dangerous Weapon General Laws Chapter 265, Section 15B(b) (December 16, 2014) .....	34a

**ORDER OF THE SUPREME JUDICIAL  
COURT FOR THE COMMONWEALTH  
OF MASSACHUSETTS  
(AUGUST 5, 2020)**

---

SUPREME JUDICIAL COURT FOR THE  
COMMONWEALTH OF MASSACHUSETTS

RE: Docket No. FAR-27615

---

COMMONWEALTH

v.

EDWARD B. FLEURY

---

Hampshire Superior Court No. 1480CR00193

A.C. No. 2018-P-0303

---

**NOTICE OF DENIAL OF APPLICATION FOR  
FURTHER APPELLATE REVIEW**

Please take note that on August 5, 2020, the application for further appellate review was denied

Francis V. Kenneally  
Clerk

Dated: August 5, 2020

To: Thomas H. Townsend, A.D.A.  
Thomas Robinson, Esquire

**MEMORANDUM AND ORDER  
PURSUANT TO RULE 1:28  
(JUNE 11, 2020)**

---

**COMMONWEALTH OF MASSACHUSETTS  
APPEALS COURT**

No. 18-P-303

---

**COMMONWEALTH**

**v.**

**EDWARD FLEURY**

---

The defendant appeals from his convictions by a Superior Court jury of twelve counts of improperly storing a large capacity weapon, in violation of G. L. c. 140, § 131L (a). We affirm.

**Background**

On September 11, 2014, members of the State Police and local police departments located within Hampshire County executed a search warrant at the defendant's residence in Pelham. The warrant authorized the seizure of one handgun; however, the police found 240 firearms throughout the home during the course of the search. On December 16, 2014, the defendant was indicted by a grand jury and charged with multiple firearm offenses, including one count of improper storage of a handgun, in violation of § 131L (a), and twenty-one counts of improper storage of a large capacity weapon, also in violation of § 131L (a) (2014 indictment). In a separate indictment returned

on September 15, 2015, the defendant was charged with five additional counts of improperly storing a large capacity weapon based on weapons retrieved from his attic, in violation of G. L. c. 140, §§ 131L (a) and (b) (2015 indictment).<sup>1</sup>

Before trial on either indictment, the defendant filed a motion to dismiss the improper firearm storage charges in both the 2014 and 2015 indictments on the ground that the definition of “large capacity weapon” set forth at G. L. c. 140, § 121, is unduly vague, rendering § 131L unconstitutional on its face and as applied to him. A Superior Court judge held an evidentiary hearing on the motion to dismiss and denied the motion in a well-reasoned written decision. The judge concluded that the defendant’s facial challenge to § 131L “must fail” for lack of standing, because the statute does not implicate rights under the First or Second Amendments to the United States Constitution. He further concluded that § 131L was not unconstitutional as applied to the defendant because the definition of “large capacity weapon” is not unduly vague.

The assault by means of a dangerous weapon (handgun) charge in the 2014 indictment, and the five improper firearm storage charges alleged in the 2015 indictment, proceeded to trial first before a jury and a different judge. The defenses at trial were that (1) he was entrapped by the police to leave his home without securing his firearms when they called him to the police station so that he would not be there while they executed the search warrant, and (2) the

---

<sup>1</sup> Although the indictments state on a preprinted form that they were returned “[o]n this 15th day of September, 2014,” the docket sheet shows that they were returned on that date in 2015.

Commonwealth's evidence regarding the five firearms retrieved from the attic was insufficient to establish that the firearms were improperly stored, because the officer who located and retrieved those firearms did not testify, and thus, the Commonwealth offered no evidence as to the manner in which those firearms were stored. The trial resulted in acquittals on all of the charges. Because he had been acquitted of improperly storing the five firearms removed from his attic that were the subject of the 2015 indictment, the defendant moved to dismiss the twenty-two remaining counts of the 2014 indictment, alleging improper storage of different firearms, on the grounds of double jeopardy and collateral estoppel. The same judge who had ruled on the motion to dismiss the indictments succinctly denied that motion in a margin endorsement that was limited to the issue of collateral estoppel.<sup>2</sup> He then presided over the defendant's second trial, which addressed twenty-two counts of improper storage of a firearm alleged in the 2014 indictment, twenty-one of which identified a large capacity firearm. The jury convicted the defendant of twelve counts of improperly storing a large capacity weapon and acquitted him of the remaining ten counts.

---

<sup>2</sup> The judge wrote: "After hearing, during which the parties told me what the evidence was in the previous case and what the Commonwealth expects the evidence to be in the instant case, I conclude that the issue of whether the guns in this case were improperly stored or secured, or whether these guns were under the control of the defendant or another authorized user at the time the police entered the premises, was not necessarily decided in the previous case. Moreover, there is no way of knowing whether the jury in the previous case based their verdict on the doctrine of entrapment, *i.e.*, whether that issue was necessarily decided."

We need not recite the facts underlying the convictions because they are not relevant to the defendant's claims on appeal: that (1) § 131L is unconstitutional on its face,<sup>3</sup> and (2) his second trial for improperly storing firearms violated principles of double jeopardy because he was previously tried for and acquitted of five counts of improperly storing a large capacity weapon. The defendant preserved these claims by filing motions to dismiss.<sup>4</sup> *See Commonwealth v. Carlino*, 449 Mass. 71, 76 n.13 (2007); *Commonwealth v. Peace Chou*, 433 Mass. 229, 238 (2001). Both claims present questions of law that we review de novo. *See Commonwealth v. Rodriguez*, 476 Mass. 367, 369 (2017) (double jeopardy); *Commonwealth v. McGhee*, 472 Mass. 405, 412 (2015) (facial challenge).

### Statutory framework

Section 131L “is part of an over-all scheme of gun control legislation designed to prevent the temptation and the ability to use firearms to inflict harm” (citation and quotation omitted). *Commonwealth v. Patterson*, 79 Mass. App. Ct. 316, 319 (2011). With the exception of antique firearms that are not at issue in this case, “[i]t shall be unlawful to store or keep any firearm” in this Commonwealth, “including, but not limited to, large capacity weapons, in any place unless such weapon is secured in a locked container

---

<sup>3</sup> The defendant has abandoned his vague as-applied challenge.

<sup>4</sup> We reject the Commonwealth's contention that the double jeopardy claim is not preserved because the defendant focused on, and the motion judge only analyzed, the doctrine of collateral estoppel. That doctrine “operates in criminal proceedings as part of the guarantee against double jeopardy.” *Commonwealth v. Woods*, 414 Mass. 343, 353 (1993).

or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully unauthorized user.” G. L. c. 140, § 131L (a). A “large capacity weapon” includes any semiautomatic weapon equipped with, capable of accepting, or readily modifiable to accept a “large capacity feeding device.”<sup>5</sup> G. L. c. 140, § 121. “Large capacity feeding device” is defined as a magazine that holds more than ten rounds of ammunition. *Id.* “For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.” G. L. c. 140, § 131L (a).

To effectuate its purpose as a public welfare statute, that is, one “criminaliz[ing] conduct that has not necessarily caused harm but is ‘potentially harmful or injurious,’” *Commonwealth v. Kelly*, 484 Mass. 53, 58 (2020), quoting *Staples v. United States*, 511 U.S. 600, 607 (1994), § 131L authorizes punishment by fine, imprisonment, or both, in amounts that vary based on the level of risk presented by the violation. Minimum and maximum fine amounts and terms of imprisonment are set forth in the statute, and increase “in the case of a large capacity weapon” that is improperly stored. G. L. c. 140, § 131L (b). Penalties increase even more “in the case of a rifle or shotgun that is not a large capacity weapon” but was kept somewhere a minor “may have access without committing an unforeseeable trespass.” G. L. c. 140, § 131L (c). The

---

<sup>5</sup> The terms “capable of accepting a large capacity feeding device” and “readily modifiable to accept a large capacity feeding device” are further defined in regulations promulgated by the Secretary of Public Safety. *See* 501 Code Mass. Regs. § 7.02 (2007).

harshest penalties are imposed “in the case of a rifle or shotgun that is a large capacity weapon” and was kept somewhere a minor may have access. G. L. c. 140, § 131L (d). A violation of § 131L is evidence of wanton or reckless conduct in certain proceedings where a minor has “acquired access to a weapon” without authorization. G. L. c. 140, § 131L (e). “These subsections highlight the Legislature’s specific interest in protecting children.” *Commonwealth v. Reyes*, 464 Mass. 245, 250 n.5 (2013). They also demonstrate the “important role” the storage statute plays in the regulatory scheme. *Id.* at 250.

## Discussion

### 1. Vagueness

The Supreme Judicial Court has held that § 131L falls outside the scope of the right to bear arms that is protected by the Second Amendment to the United States Constitution. *See Chief of Police of Worcester v. Holden*, 470 Mass. 845, 853 (2015); *Commonwealth v. McGowan*, 464 Mass. 232, 244 (2013). Thus, as the judge who denied the defendant’s motion to dismiss the indictments correctly held, “the defendant cannot seek relief on the basis that the statute is unconstitutional on its face.” *Commonwealth v. Golding*, 86 Mass. App. Ct. 55, 59 (2014). *See Commonwealth v. Jasmin*, 396 Mass. 653, 655 (1986), and cases cited.<sup>6</sup>

---

<sup>6</sup> In any event, we agree with the judge’s conclusion that this claim would not succeed on its merits because the statute is not vague. All semiautomatic firearm owners in this Commonwealth “can take simple steps to ensure compliance with” § 131L in the event their weapon becomes a large capacity one without their knowledge, *Kelly*, 484 Mass. at 61, by storing their firearm as provided in the statute.



## 2. Double jeopardy

We are not persuaded by the defendant's claim that his second trial, for improperly storing twenty-two other firearms, including twenty-one large capacity ones, ran afoul of the prohibition on "multiple punishments for the same offense." *Mahoney v. Commonwealth*, 415 Mass. 278, 283 (1993). Section 131L is not ambiguous with respect to the proper unit of prosecution, as the defendant claims, because the words "any firearm" clearly import the singular when they are considered with the rest of the language in the statute and the purpose of § 131L. *See Commonwealth v. Wassilie*, 482 Mass. 562, 567 (2019) (we look to language and purpose of statute in order to determine appropriate unit of prosecution). *See also* G. L. c. 4, § 6, Fourth ("words importing the plural number may include the singular"). "Any firearm" is modified in the first and last sentences of subsection (a) by "such weapon," making it clear that "any firearm" not in the control of an owner may not be stored in this Commonwealth unless "such weapon" is secured to prevent unauthorized access. That each firearm is the subject of its own safe storage requirement is reinforced by the fact that the penalty for a violation increases "in the case of . . . a large capacity . . . firearm," or "a rifle or shotgun," to which a minor may gain access (emphasis added). G. L. c. 140, § 131L (d). Liability also may be imposed on a gun owner if a minor acquires access to "a weapon" because it has not been securely stored (emphasis added). G. L. c. 140, § 131L (e).

Section 131L therefore is unlike the Federal statute at issue in *United States v. Verrecchia*, 196 F.3d 294 (1st Cir. 1999), which is the sole case upon

which the defendant relies. The court in that case held that a defendant can only be convicted once for possessing multiple weapons at the same time in violation of 18 U.S.C. § 922(g)(1), because that statute “focuses on the person, not the firearm.” *Id.* at 300. The court’s conclusion in *Verrecchia* rested, in part, on the fact that “[e]ach possession of a firearm by a felon is of equal seriousness” under the statute. *Id.* at 301. By contrast, the seriousness of each violation of § 131L depends on the nature of the weapon and the manner in which it was stored.

The defendant’s acquittal of improperly storing the five large capacity Glock firearms retrieved from the defendant’s attic and identified by serial number in the 2015 indictment “resolved only one factual issue.” *Commonwealth v. Woods*, 414 Mass. 343, 348 (1993). That issue was whether the defendant improperly stored those particular firearms. As a matter of law, the defendant’s failure properly to store the twenty-two firearms alleged in the 2014 indictment, which we know are different firearms because they are also identified by serial number, could not have been a lesser included offense of any of those charges. The failures for which the defendant was on trial the second time were not “based on the same acts performed with the same [firearms]” that were at issue in the first trial. *Commonwealth v. Rabb*, 431 Mass. 123, 128 (2000).

The prosecution was required to prove that the defendant improperly stored “a separate set of [guns] in [the] subsequent prosecution.” Therefore, “the defendant [wa]s not placed twice in jeopardy for the same offense.” *Woods*, *supra*, citing *Illinois v. Vitale*, 447 U.S. 410, 416 (1980).

Judgments affirmed.

By the Court  
(Vuono, Lemire & McDonough, JJ.<sup>7</sup>)

/s/ Joseph F Stanton  
Clerk

Entered: June 11, 2020.

---

<sup>7</sup> The panelists are listed in order of seniority.

**CONVICTION DOCKET  
(DECEMBER 16, 2014)**

---

MASSACHUSETTS TRIAL COURT

---

COMMONWEALTH

v.

FLEURY, EDWARD

---

No. 1480CR00193

---

Case Type: Indictment

Case Status: Open

File Date: 12/16/2014

DCM Track: A- Standard

Initiating Action: ASSAULT W/DANGEROUS  
WEAPON c265 § 15B(b)

Status Date: 12/16/2014

---

09/21/2017 Offense Disposition:

Charge #1 ASSAULT W/DANGEROUS WEAPON  
c265 § 15B(b)

On: 10/28/2016

Judge: Hon. Mark D Mason

By: Jury Trial

NOT GUILTY VERDICT

Charge #2 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford  
By: Jury Trial  
GUILTY VERDICT

Charge #3 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)  
On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge #4 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 §131L(a)&(b)  
On: 09/21/2017  
Judge: Hon. Daniel Ford  
By Jury Trial  
Guilty Verdict

Charge #5 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)  
On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Not Guilty Verdict

Charge #6 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)  
On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge #7 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)  
On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge #8 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

Charge#9 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

Charge #10 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017 Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

Charge #11 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

Charge #12 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

Charge #13 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial  
Not Guilty Verdict

Charge #14 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Not Guilty Verdict

Charge #15 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge #16 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge#17 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge #18 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017  
Judge: Hon. Daniel Ford  
By: Jury Trial  
Guilty Verdict

Charge #19 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial Guilty Verdict

Charge #20 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Guilty Verdict

Charge #21 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

Charge #22 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Guilty Verdict

Charge #23 FIREARM, STORE IMPROP LARGE  
CAPACITY c140 § 131L(a)&(b)

On: 09/21/2017

Judge: Hon. Daniel Ford

By: Jury Trial

Not Guilty Verdict

09/21/2017

Event Result: Jury trial ends, Verdict slips  
filed. Defendant released on Personal Recog-



nizance, sentencing continued to 9/22/2017  
@ 2 PM

The following event: Jury Trial scheduled  
for 09/21/2017 09:00 AM has been resulted  
as follows

Result: Held as Scheduled

09/21/2017 Verdict affirmed, verdict slip filed

Counts

2, 3, 4, 6, 7, 15, 16, 17, 18, 19, 20 & 22

GUILTY AS CHARGED

Counts

5, 8, 9, 10, 11, 12, 13, 14, 21 & 23

NOT GUILTY

**TESTIMONY OF EXPERT WITNESS  
LEWIS GORDON  
(MAY 10, 2016)**

---

COMMONWEALTH OF MASSACHUSETTS

Hampshire, as Superior court Dept.

Dockets: 1480CR00193; 1580CR115

---

COMMONWEALTH OF MASSACHUSETTS

v.

EDWARD FLEURY

---

The Transcription of the Recorded Motion to Dismiss  
and Motion to Sever Hearing Held Before Ford, J . In  
the Hampshire County Superior Court, Courtroom  
Number 2, 15 Gothic Street, Northampton,  
Massachusetts on Tuesday, May 10, 2016.

---

**DIRECT EXAMINATION BY MR. ROBINSON  
[Counsel for Edward Fleury, Defendant]**

MR. ROBINSON: Good afternoon.

THE WITNESS [Lewis Gordon, Expert Witness]:  
Good afternoon.

Q. Would you, please, state your name for the record  
and spell your last name?

A. Certainly. Lewis Gordon, G-O-R-D-O-N.

Q. And how are you currently employed?

A. I own and operate Forensic Evidence, Incorporated, which is a firearms examination laboratory.

Q. And what do you do there?

A. We examine firearms.

We look at projectiles and cartridge cases for comparison work.

We do shooting-incident reconstruction.

Q. And have you ever testified as an expert before—

A. Yes.

Q. —in Court?

A. I have.

Q. In what Court have you testified as an expert?

A. Both in Hampden County Superior and District Courts.

Q. And do you have any specialized training or education in this area?

A. Yes.

Q. Would you describe that for the Court?

A. Certainly. I have over thirty years experience with firearms, which was supplemented with a master's degree in forensic science and, in addition, completed a certificate program in gunsmithing.

I'm a certified firearms specialist, as well as numerous armorous courses and workshops.

Q. And what about you mentioned that you had a degree in forensic science?

A. Yes. That's correct.

Q. Have you got any other schooling?

A. Yes. I have a bachelor's degree in law enforcement, and a law degree, and a certificate in advanced investigations.

Q. And is there any other schooling besides that?

A. Formalized, no.

Q. And did you ever work in law enforcement?

A. I did for brief periods of time, yes.

I was a patrol officer in a couple small towns.

Q. And have you ever been involved in training law enforcement?

A. Yes. I currently train—I do firearms instruction for the Hampden County Sheriff's Department, Law Enforcement Division.

Q. And did you also attend law school?

A. I did.

Q. Did you complete law school?

A. I did.

Q. Is there any other area of your background, training and experience that I've neglected to question you about?

A. I don't believe so.

Q. Okay. Now, are you familiar with the case that is against Mr. Edward Fleury—

A. Yes.

Q. —in Court?

And how is it that you came to be familiar with that?

A. You retained me to review various discovery in the matter.

Q. And have you had an opportunity to review the indictments in this case?

A. Yes.

Q. Okay. And are you familiar with those counts in the indictment that charge improper storage of a large-capacity firearm?

A. Yes.

Q. Okay. Now, if you can from memory, are there specific statutes that are associated with improper storage of a firearm?

A. Yes.

Q. And do you recall what those are?

A. Specifically Section 131, I think, deals with aspects of that.

But as far as the criminal statute related to it, no.

I'm more focused on the definition issues.

Q. Okay. Now, are you familiar with Count Four of the indictment?

A. Of specifically 14-193?

Q. That's correct.

A. Yes, I am.

Q. Are you familiar with the firearm that is associated with that count?

A. Yes.

- Q. And what firearm is that?
- A. It's a Beretta Cx4 Storm.
- Q. Can you describe for the Court what type of gun that is?
- A. It's a semi-automatic firearm, and I believe in forty-five caliber.
- Q. And when you say semi-automatic, what does that mean?
- A. That means that there is no manual loading required after the initial shot. It is auto loading or semi-automatic in that each pull of the trigger will discharge a cartridge to the point where there is no more cartridges available.
- Q. Now, how many rounds can that particular firearm accept?
- A. The Beretta Cx4 is designed specifically for an eight-round magazine capacity.
- Q. And now are you also familiar with Count Nine of indictment 14-193?
- A. Count nine, that might actually be 15-115, count nine.
- Q. I believe count nine is from indictment 14-193 and deals with the Beretta Model 96?
- A. I'm familiar with the Beretta 96, yes.
- Q. Okay. And what type of firearm is that?
- A. It is also a semi-automatic handgun.
- Q. Now, are you aware of the Approved Firearms Roster?
- A. Yes.

Q. And are you also aware of the Large-Capacity Weapons Roster?

A. Yes.

Q. Can you describe for the Court what those two things are?

A. They are documents which are created by the Executive Office of Public Safety as required under Chapter 140, Section 131 and three-quarters to promulgate a list.

131 and three-quarters deals specifically with large capacity firearms and requires the secretary of public safety to generate a list of firearms—

Q. Okay.

A. —that are deemed large-capacity.

MR. ROBINSON: May I approach?

THE COURT: Yes.

Q. I put before you two documents. do you recognize those documents?

A. Yes.

Q. And what are they?

A. This document here is a Large-Capacity Weapons Roster labeled 02 dash 2015.

And the other document is the Approved Firearms Roster labeled 2-2016.

Q. And are those the rosters that you mentioned that are referenced within the statutory scheme?

A. Yes.

MR. ROBINSON: Your Honor, at this time I would ask that those two documents be marked as Defense Exhibits 1 and 2.

MR. THOMAS: If I could just see them again, Your Honor?

THE COURT: All right. Show them to Counsel, please.

MR. THOMAS: There's no objection, Your Honor.

THE COURT: All right. Exhibits 1 and 2, please.

(Defendant's Motion  
Exhibits 1-2 offered and marked.)

Q. Now, drawing your attention to what has been marked as Exhibit Number One, the Large-Capacity Weapon Roster, does that roster make reference to the Beretta model 96?

A. It does not.

MR. ROBINSON: May I approach again, Your Honor?

THE COURT: Yes.

MR. ROBINSON: All right. I would move that those two exhibits be moved into evidence for the Court.

I guess the—

I mean, I think the Court can take judicial notice of them.

THE COURT: They have already been marked as exhibits.

MR. ROBINSON: Thank you, Your Honor.

THE CLERK: Do you want these?

THE COURT: Yes. I'll take a look at them.



Q. Now, are you also familiar with indictment number 15-115?

A. Yes.

Q. And are you familiar with counts one through five in that indictment, as well?

A. Generally.

Q. Okay. And do you recall what he charges are in that indictment? A. It's also improper storage of high-capacity or large-capacity firearms.

Q. And do you recall what type of firearms those that are involved in that indictment?

A. No. Those could possibly be lock firearms.

Q. Now, getting back to the Cx4 storm that is the subject matter of indictment 14-193 and count four, you testified that that was designed to accept less than eight rounds. Is that correct?

A. Designed specifically for eight rounds.

Q. Okay. So as designed it could not accept a magazine of greater than eight rounds?

A. It was manufactured with only an eight-round magazine capacity.

It is not the—

Generally, it is not the inherent mechanical design of the semi-automatic firearm which determines whether it's capable of accepting a larger magazine capacity. It is the magazine capacity itself and the design of that magazine which, you know, would make it capable of holding more than ten rounds.

Q. So is that true of other firearms that are sold; that they are designed to have a limited number of rounds in the magazine?

A. Yes. In the Commonwealth of Massachusetts, you are not—

And excluding law enforcement, of course.

—you are not permitted to purchase a firearm with a magazine capacity of greater than ten.

Q. So if a Massachusetts consumer were to purchase a firearm, let's say like the Beretta 96, to lawfully purchase that weapon you would not—you would not be purchasing it with a magazine that could accept more than ten rounds.

Is that correct?

A. That's correct.

Q. And generally speaking a store in Massachusetts wouldn't sell you a large-capacity weapon.

Is that correct?

A. Not unless you are law enforcement, that's correct.

Q. Now, let's take that Beretta 96 as an example.

If you lawfully purchased that and a ten-round magazine, based upon your knowledge of the statutory scheme would you then be in possession of a large capacity?

A. It's uncertain.

Q. And why is it uncertain?

A. Because the statutes and the accompanying CMR's are in contradiction, as well as the Large-Capacity

Weapons Roster, as well as the Approved Weapons Roster, at times conflict.

The example that you have given, which is the Beretta 96, is on the Approved Weapons Roster, but is not on the Large-Capacity Weapons Roster, but is capable and in other jurisdictions outside of the Commonwealth can be supplied with a fifteen-round magazine capacity.

So it is capable of accepting; however, is deemed on the approved list here in the Commonwealth.

MR. THOMAS: Objection, Your Honor, as to the answer and ask it be stricken. It's essentially a legal conclusion as to what the law said and whether or not the law is contradictory.

It's not for this so-called expert to tell us or you what the law is.

And it's not necessarily a very straightforward answer either.

The fact that someone can have a fifteen-round magazine with a semi-automatic weapon in another state, they can certainly bring it into Massachusetts so long as it's properly licensed.

That really isn't the issue here.

The issue is what the storage of that weapon is.

So, again, I would ask that the question and answer be stricken.

MR. ROBINSON: Your Honor, I—

THE COURT: Well, so much of the answer as states what the witness' understanding of the law is stricken. The balance may stand.

MR. ROBINSON: Yes, Your Honor.

I would suggest that his testimony, based upon his training and experience in both the law and in firearms generally, is germane to the inquiry here and whether or not the statute is vague on its face.

THE COURT: All right. The order stands.

Q. Yes, Your Honor.

You have made reference to the CMR. Are you familiar with what section of the CMR is implicated in the statutory scheme that defines a large-capacity weapon?

A. Yes. On the large capacity roster it references 501 CMR 7.02 as further defining the definition of capable of accepting or readily modifiable to accept a large-capacity feeding device.

MR. ROBINSON: May I approach, Your Honor?

THE COURT: You may.

Q. I'm putting before you another document. Do you recognize that document?

A. Yes.

Q. And what is that?

A. This is 501 CMR 7.00.

Q. And is there a—you referenced a definition that deals with large-capacity firearms or weapons.

And is there a definition that is written out there?

A. There are two with respect to large-capacity feeding devices, the first being capable of accepting large-capacity feeding devices.

The second relates to readily modifiable to accept a large-capacity feeding device.

Q. And is there reference in the CMR to a situation where a firearm has with it a specific type of magazine?

A. Yes.

Q. And could you describe that for the Court, please?

A. Certainly. Under both sections, both the section labeled capable of accepting a large capacity feeding device, as well as the section readily modifiable to accept, it indicates provided, however, that—

Quoting now.

—provided, however, that said feeding device is fully or partially inserted into the weapon or attached hereto or is under the direct control of a person who also has direct control of the weapon capable of accepting said feeding device.

MR. ROBINSON: Your Honor, at this time I would ask that this CMR be marked as defense Exhibit 3?

THE COURT: All right. Exhibit Number Three.

(Defendant's Motion  
Exhibit 3 offered and marked.)

Q. Now, the definition of large-capacity weapon under General Laws Chapter 140, Section 121, does that say anything about there needing to be a magazine with the gun at the time for it to be a large-capacity weapon?

A. No, it does not.

Q. Now, there are some weapons that when they are manufactured they are only manufactured with a magazine that accepts less than say ten rounds. Is that correct?

A. That's correct.

Q. Okay. Now, it is possible that a person purchasing such a firearm could be in possession of that gun and then later that manufacturer or another manufacturer could create a magazine that would be larger. Is that correct?

A. Yes.

Q. And are there other—besides say a manufacturer, are there sometimes kits that are produced to achieve the same result?

A. Yes. You can sometimes modify the magazines.

Again, it is the capability, mechanical capability, of the magazine which generally defines whether it can accept ten rounds or more. It is not the firearm itself.

Q. If you purchase a firearm that was designed to accept fewer than, say, ten rounds, is there any way of knowing whether or not in the future that firearm could be modified or whether a manufacturer will produce a magazine of a larger capacity?

A. No. There's no way to know.

MR. ROBINSON: If I could have one moment, Your Honor?

THE COURT: All right.

MR. ROBINSON: I have no further questions, Your Honor.

THE COURT: All right. Thank you. Cross, Mr. Thomas?

[ \* \* \* \* ]

CROSS EXAMINATION BY MR. THOMAS  
[Counsel for the State of Massachusetts]

Q. Thank you, Your Honor. If I could approach the witness?

Now, sir, showing you Exhibit 1, the Large-Capacity Weapons Roster, 02/2015, this is not an all-inclusive list. Is that fair to say?

A. That's fair to say.

Q. On the top of it there's essentially a preamble where there's two paragraphs saying—it kind of . . . .

[ . . . ]

. . . objection is sustained.

MR. THOMAS: All right. Thank you. Your Honor.

If I could have a moment, Your Honor.

THE COURT: You may.

MR. THOMAS: We have no further questions of this witness, Your Honor.

THE COURT: All right. Thank you. Any redirect?

MR. ROBINSON: Yes, Your Honor, very briefly.

[ \* \* \* \* ]

REDIRECT EXAMINATION BY MR. ROBINSON

Q. You were asked questions about semi-automatic weapons and, say, the Beretta 96.

Could any—virtually any semi-automatic weapon classify as a large-capacity weapon under the statutory scheme?

A. Yes.

Q. Does the statutory law specifically say all semi-automatic weapons are large-capacity weapons?

A. It does not.

Q. And does the Large-Capacity Weapons Roster and the Approved Weapons Roster, do they both contain semi-automatic weapons?

A. Yes.

Q. Now, let's take law enforcement for a moment. A law enforcement officer who arrested somebody in possession of a Cx4 Storm, would they have discretion to charge that as a large-capacity weapon, if it was improperly stored, or not a large-capacity weapon, in your opinion?

A. I believe they would.

Q. And why is that?

A. Because the definition is so vague that it is subject to interpretation. And they could view the firearm itself in either way, either as large-capacity or not.

Q. And how would they go about viewing it one way or another?

A. Well—

MR. THOMAS: Objection, Your Honor.

THE COURT: This is beyond the scope. Sustained.



Q. You were shown a document which indicated a kit that could modify a Cx4 Storm. And you indicated that you were familiar with that. Is that correct?

A. Yes.

Q. And in your affidavit and in your testimony, you indicated that it is your understanding that that firearm was designed specifically to accept eight rounds or less. Is that correct?

A. Yes.

Q. Is there some reason why it was designed that way?

A. I don't know the specific reason. I just know the manufacturer's materials indicate that it's designed for eight-round capacity.

MR. ROBINSON: I have nothing further, Your Honor.

THE COURT: Thank you. Any recross?

MR. THOMAS: No, Your Honor.

THE COURT: Thank you very much, sir.

THE WITNESS: Thank you, Your Honor.

THE COURT: You may step down.

COURT OFFICER: This is just on the plea for your signature of conditions.

THE COURT: All right. Mr. Robinson, anything else?

MR. ROBINSON: No, Your Honor.

THE COURT: All right. Mr. Thomas?

MR. THOMAS: We will not call a witness, Your Honor.

THE COURT: All right. Do you wish to argue, Mr. Robinson?

MR. ROBINSON: Briefly Your Honor. You know, I would rely essentially upon the memorandum.

But essentially what I would suggest, Your Honor, is that the—if you look at the statutory scheme in Massachusetts that . . . .

[ . . . ]

**INDICTMENT ASSAULT BY MEANS OF A  
DANGEROUS WEAPON GENERAL LAWS  
CHAPTER 265, SECTION 15B(b)  
(DECEMBER 16, 2014)**

---

COMMONWEALTH OF MASSACHUSETTS

---

COMMONWEALTH

v.

EDWARD FLEURY

---

Hampshire, SS. Superior Court  
Indictment No. 14-193-1

---

---

**SUPERIOR COURT INDICTMENT NO. 14-193-1**

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, August 2, 2014 at Belchertown in the County of Hampshire, did assault Peter Teraspulsky by means of a dangerous weapon, namely a handgun.

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-2**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Luger CZ Model 85 with serial number 06327, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the

owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

### **SUPERIOR COURT INDICTMENT NO. 14-193-3**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

#### **EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely an Action Arms Uzi Model B, serial number SA59296, without securing the weapon in a locked container or

equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

### **SUPERIOR COURT INDICTMENT NO. 14-193-4**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely

a Beretta Model CX4 Storm, serial number CK04156, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-5**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

EDWARD FLEURY

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Beretta Model 92FS, serial number BER427474, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

### **SUPERIOR COURT INDICTMENT NO. 14-193-6**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and



fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September IL 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Smith and Wesson Model 669, serial number TBK 1755, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-7**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Smith and Wesson Model 5904, serial number TCF 0935, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-8**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Beretta Model 92F, serial number D05313Z, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-9**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Beretta Model 96, serial number BER150356, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L (a).

A True Bill

/s/ Signature Not Legible  
Foreperson

/s/ Matthew Thomas  
Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to

said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-10**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Kel-Tec Model PLR-16, serial number P3W93, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible  
Foreperson

/s/ Matthew Thomas  
Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-11**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a FN Herstal Five Seven IOM, serial number 3861-61469, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-12**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Sig Sauer Model P229, serial number A124054, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-13**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Colt Model SP-1, serial number SP190686, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the



owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

### **SUPERIOR COURT INDICTMENT NO. 14-193-14**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

#### **EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Springfield Model M1-A, serial number 152713, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or

other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-15**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon,

namely a Winchester Model M1 Carbine, serial number 6575237, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-16**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Spikes Tactical Model SL15, serial number SAR01935, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-17**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and

fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Spikes Tactical Model SL15, serial number SAR01934, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-18**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Marlin Model 9 Camp Carbine, serial number 013262, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to

said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-19**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Norinco SKS semi-automatic rifle serial number 9303009, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible  
Foreperson

/s/ Matthew Thomas  
Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-20**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Bushmaster Model XM15-E25, serial number L297616 without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a),



A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

**SUPERIOR COURT INDICTMENT NO. 14-193-21**

---

At the Superior Court, begun and, holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Colt Model AR15A2, serial number GC019798, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the

owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk

---

### **SUPERIOR COURT INDICTMENT NO. 14-193-22**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

#### **EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hampshire, did store or keep a large capacity weapon, namely a Spikes Tactical Model SL15, serial number SAR01936, without securing the weapon in a locked

container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

### **RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.  
Clerk

---

### **SUPERIOR COURT INDICTMENT NO. 14-193-23**

---

At the Superior Court, begun and holden at Northampton, within and for the County of Hampshire, for the transaction of criminal business, on the First Monday of October in the year two thousand and fourteen, the GRAND JURORS for the Commonwealth of Massachusetts on their oath, present that:

**EDWARD FLEURY**

of Pelham in the County of Hampshire on or about, September 11, 2014 at Pelham in the County of Hamp-

shire, did store or keep a firearm rifle or shotgun, not an otherwise large capacity weapon, without securing the weapon in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by such person other than the owner or other lawfully authorized user, in violation of General Laws Chapter 140, Section 131L(a).

A True Bill

/s/ Signature Not Legible

Foreperson

/s/ Matthew Thomas

Assistant District Attorney

**RETURN**

HAMPSHIRE, ss. On this 16th day of December, 2014, this indictment was returned and presented to said Superior Court by the Grand Jury, and filed by order of the Court.

Attest: Harry Jekanowski, Jr.

Clerk