

In the Supreme Court of the United States

BENJAMIN SCHOENTHAL, et al.,
Petitioners,

v.

KWAME RAOUL, in his official capacity as
Attorney General of Illinois, et al.,
Respondents.

**On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit**

**BRIEF IN OPPOSITION FOR RESPONDENTS
KWAME RAOUL AND ROBERT BERLIN**

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QUESTION PRESENTED

Illinois law allows licensed firearm owners, including petitioners, to transport firearms on public transit as long as those firearms are unloaded and secured.

The question presented is:

Whether a State may, consistent with the Second Amendment, prohibit the carry of loaded or unsecured handguns on public transit.

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BRIEF IN OPPOSITION

Illinois law allows licensed firearm owners to transport their weapons on public transit, but requires that they be unloaded and secured during the journey. In the decision below, the Seventh Circuit carefully applied this Court's decisions in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024), and concluded, based on an extensive historical analysis, that this restriction is consistent with the Nation's historical tradition of firearm regulation in at least two ways. First, it comports with the principles underlying historical firearm prohibitions in sensitive places, such as courthouses, government buildings, legislative assemblies, polling places, and schools. Second, it descends from similar restrictions on passenger railroads in the nineteenth century. The Seventh Circuit's decision was correct, and it satisfies none of the criteria for certiorari.

To begin, petitioners do not — and cannot — identify any division of authority on the question whether laws like Illinois's comply with the Second Amendment. On the contrary, the Seventh Circuit's decision is consistent with decisions of all three federal courts of appeals that have addressed challenges to laws restricting firearms on public transit (the Second, Fourth, and Ninth Circuits). Nor should this Court accept petitioners' broader invitation to grant certiorari to comprehensively define the set of locations where firearms may be prohibited. The narrowness of Illinois's statute, a predicate standing issue, and petitioners' failure to address a distinct historical tradition relied on by the Seventh Circuit make this an unusually poor vehicle to address the law of

sensitive places. Moreover, courts are not, as petitioners suggest, confused about how to apply *Bruen* to sensitive-place restrictions. Rather, they are faithfully applying this Court’s precedents by analyzing, on a case-by-case basis, each challenged restriction’s consistency with the Nation’s historical tradition — a practice this Court should let continue, rather than short-circuiting the percolation process. The decision below is consistent with this trend, and with *Bruen*.

STATEMENT

1. Illinois regulates who can publicly carry firearms and where those firearms can be carried. For over a decade, the State has allowed individuals with concealed carry licenses generally to carry concealed pistols, revolvers, or handguns in public for self-defense. 430 ILCS 66/10; 720 ILCS 5/24-1(a)(4)(iv), (a)(10)(iv); *id.* § 5/24-1.6(a)(3)(A-5); *id.* § 5/24-2(a-5). Like most States, however, Illinois has designated certain “[p]rohibited areas” in which even concealed carry licenseholders may not carry a loaded and accessible firearm. 430 ILCS 66/65. Such locations include schools, *id.* § 65(a)(1); childcare facilities, *id.* § 65(a)(2); courthouses, *id.* § 65(a)(4); and, as relevant here, “[a]ny bus, train, or form of transportation paid for in whole or in part with public funds,” as well as associated parking areas, *id.* § 65(a)(8). Violation of this public-transit restriction is a misdemeanor, with a potential penalty for a first violation of not more than six months’ imprisonment and a fine of up to \$1,500. See *id.* § 66/70(e); 730 ILCS 5/5-4.5-60(a), (e).

The restriction is not absolute. Illinois law permits any licensed firearm owner to bring a firearm on public transit if it is “broken down in a non-functioning state,” is “not immediately accessible,” or is “unloaded and enclosed in a case” or other container. 720 ILCS 5/24-1(a)(4)(i)-(iii), (a)(10)(i)-(iii); *id.* § 5/24-1.6(c); see also 430 ILCS 66/10(g)(3). Licensed firearm owners are permitted, in other words, to transport their firearms on public transit, but not to carry them in a loaded or unsecured state.

2. Petitioners are three Illinois residents with concealed carry licenses. Doc. 1 ¶¶ 14-15, 17, 31, 38, 52. They filed suit to challenge the public-transit restriction, arguing that the provision violates the Second Amendment in that it interferes with their ability to carry handguns for self-defense while riding public transit. *Id.* ¶¶ 65-77. Respondents are state and county officers with authority to enforce the restriction. Pet. App. 80a. The parties conducted fact and expert discovery and cross-moved for summary judgment. Docs. 63, 67, 69.

The district court granted each motion in part. The court concluded that petitioners lacked standing to sue certain named defendants who played no role in enforcing the statute in the areas where petitioners intended to ride public transit, Pet. App. 80a-81a, and that they had forfeited any argument for injunctive relief by failing to address the relevant equitable factors, *id.* at 129a. On the merits, however, the court held both that petitioners’ proposed conduct fell within the Second Amendment’s plain text, *id.* at 98a-101a, and that respondents had not shown that the public-transit restriction was consistent with the Nation’s historical tradition of firearm regulation, *id.* at 101a-

122a. The court entered a declaratory judgment holding the public-transit restriction unconstitutional as applied to each petitioner’s ability to carry a concealed firearm on the specific transit systems that each would like to use. *Id.* at 130a.

3. The Seventh Circuit reversed. *Id.* at 2a. The court began by analyzing petitioners’ standing. *Id.* at 7a-17a. It observed that “other rules” — such as the Chicago-area Metra commuter rail’s passenger code of conduct — independently “restrict[ed petitioners] from carrying firearms on public transportation even in the absence of the challenged statute,” such that it was not obvious that “a favorable decision [would] redress [petitioners’] injuries.” *Id.* at 9a. After “carefully pars[ing] th[is] . . . Court’s standing jurisprudence,” *ibid.*, however, the court held that petitioners had standing because a favorable ruling would protect them from criminal prosecution under the challenged law, even if they remained vulnerable to penalties or prosecution under other rules, *id.* at 14a. But it emphasized that “overlapping criminal statutes” may sometimes “defeat standing,” and that “careful consideration” is necessary “when these concerns arise.” *Ibid.*

Turning to the merits, the panel noted that there was no dispute, at *Bruen*’s first step, that “the plain text of the Second Amendment . . . cover[ed]” petitioners’ proposed course of conduct. *Id.* at 18a. It therefore proceeded to the second step, assessing “whether the challenged regulation is consistent with the principles that underpin our regulatory tradition.” *Id.* at 19a (quoting *Rahimi*, 602 U.S. at 692). The court held that the public-transit restriction satisfied this standard in multiple ways.

First, the court concluded that the modern regulation fell within the tradition of prohibiting firearms in sensitive places. *Id.* at 29a-48a. The panel discussed, in particular, the evidence that this tradition included restrictions on firearms in crowded, confined spaces, such as ballrooms, educational assemblies, and theaters. *Id.* at 29a-36a. It explained that the public-transit restriction was analogous to these historical laws in both how and why it burdened the Second Amendment right. *Id.* at 36a-48a. With respect to “how,” the court reasoned, the modern law was, if anything, less restrictive than its historical antecedents, since it included an exception for unloaded, secured firearms, while historical measures imposed categorical bans. *Id.* at 37a-38a. And the penalties for violations, the court held, were similar to historical practice. *Id.* at 38a-39a. With respect to “why,” the court identified multiple relevant similarities that collectively “explained how public transit’s unique physical characteristics . . . create similar problems . . . as in historically regulated crowded places.” *Id.* at 40a. Like historical sensitive places, public transit features “confined areas with a high density of people,” making firearms “exceptionally dangerous,” *id.* at 41a; serves vulnerable populations, including children, *id.* at 41a-42a; “is owned and operated by the government,” *id.* at 42a; and serves a “crucial” societal function, *id.* at 41a; see *id.* at 40a-45a. The challenged statute was thus consistent with the Nation’s historical tradition, and therefore constitutional.

In reaching this conclusion, the Seventh Circuit rejected petitioners’ argument that historical sensitive-place laws were justified exclusively by the presence of “comprehensive” government-provided security. *Id.*

at 23a; see *id.* at 23a-26a. The court first noted that this view was inconsistent with *Bruen* and *District of Columbia v. Heller*, 554 U.S. 570 (2008), which recognized schools — which, even on petitioners’ account, had no such security — as sensitive places. Pet. App. at 23a-24a. And it then explained that petitioners’ historical evidence did not establish the presence of security even at the sensitive places petitioners did address — courthouses, legislative assemblies, and polling places. *Id.* at 24a-26a.

Second, the Seventh Circuit held that the public-transit restriction was also consistent with a historical tradition of limiting access to firearms on passenger railroads in the nineteenth century. *Id.* at 48a-52a. These historical railroad rules were a “straight-forward” match for the modern law in both how and why they restricted passengers’ ability to bear arms. *Id.* at 50a. The historical restrictions, like the modern one, either barred firearms or required that they be unloaded and secured. *Ibid.* And they did so out of “a concern for public safety in confined, discrete, fast-moving vehicles.” *Id.* at 51a. This tradition, too, supported the challenged statute.

Finally, the panel observed that its decision was consistent with First Amendment doctrine governing time, place, and manner restrictions. *Id.* at 52a-54a.

In a concurring opinion, Judge St. Eve “high-light[ed the] difficult jurisdictional question” that arises “where a plaintiff defines her injury as the inability to engage in protected activity — not the threat of prosecution for doing so — and an unchallenged law also prohibits that precise activity.” *Id.* at 57a (St. Eve, J., concurring). She noted that “[t]he federal

courts’ approach to redressability is in flux,” requiring courts to “proceed cautiously.” *Id.* at 67a.

REASONS FOR DENYING THE PETITION

The petition should be denied. Petitioners cannot and do not claim that there is any division of authority on the question presented. Nor does the petition raise any important issue of federal law warranting review: the statute at issue is narrow and supported by multiple independent historical traditions, and petitioners offer no compelling reason for this Court to pretermit the percolation of sensitive-place cases through the lower courts. In any event, the Seventh Circuit’s analysis was consistent with this Court’s precedents — unlike petitioners’ novel security-based theory of sensitive places, which is incompatible not only with *Heller* and *Bruen* but also with history and “common sense.” *Rahimi*, 602 U.S. at 698.

I. This Case Does Not Satisfy The Criteria For Certiorari.

A. There is no division of authority on the question presented.

Petitioners do not identify any division of authority on the question presented. See S. Ct. R. 10; Pet. 4 (characterizing the decision below as “exemplary of [a] trend”). Nor could they. The courts of appeals that have addressed the issue unanimously agree that statutes like the challenged one — which allow transit riders to transport firearms but require that those firearms be unloaded and secured — are constitutional under *Bruen*.

In addition to the Seventh Circuit, three other courts of appeals have reached this conclusion. The

Second and Fourth Circuits have held that New York’s and Maryland’s prohibitions on firearms on public transit are likely constitutional and constitutional, respectively. *Frey v. City of New York*, 157 F.4th 118, 135-136 (2d Cir. 2025); *Kipke v. Moore*, 165 F.4th 194, 208-211 (4th Cir. 2026).¹ And, although the Ninth Circuit concluded that California’s broader public-transit ban — which does not contain an exception for unloaded, secured firearms — is likely unconstitutional, it “emphasize[d]” that a statute with such an exception, like the Illinois public-transit restriction, “almost certainly would be constitutionally permissible.” *Wolford v. Lopez*, 116 F.4th 959, 1002 (9th Cir. 2024), *cert. granted on other grounds*, 146 S. Ct. 79 (2025). The decision below is consistent with each of these holdings.

This unanimity is not, as petitioners suggest, the product of a campaign among “the lower courts [to] . . . green-light[] government attempts to disarm [citizens].” *Contra* Pet. 3. Even in the relatively small sample of cases decided since *Bruen*, courts of appeals have held a variety of location-based firearm restrictions unconstitutional or likely unconstitutional, including in the same decisions cited by petitioners as evidence of this alleged trend. See *Wolford*, 116 F.4th at 1002-1003 (hospitals, places of worship, and other

¹ A panel of the Third Circuit similarly held that a New Jersey statute prohibiting the carry of loaded or unsecured handguns on public transit was likely constitutional. *Koons v. Att’y Gen. N.J.*, 156 F.4th 210, 269-271 (3d Cir. 2025). That court subsequently elected to rehear the case — which also involves challenges to other New Jersey firearm laws — *en banc* and vacated the panel decision. *Koons v. Att’y Gen. N.J.*, 162 F.4th 100 (3d Cir. 2025) (mem.).

locations); *Antonyuk v. James*, 120 F.4th 941, 1047 (2d Cir. 2024) (certain private property open to the public), *cert. denied*, 145 S. Ct. 1900 (2025); *Kipke*, 165 F.4th at 218-219 (same). But, in carefully applying the *Bruen* standard, the courts of appeals, including the Seventh Circuit below, have consistently found ample historical support for laws like the public-transit restriction. See, e.g., Pet. App. 29a-52a. That uniform result demonstrates that certiorari is unwarranted. See S. Ct. R. 10.

B. Petitioners do not identify any important question of federal law warranting review.

Unable to identify any division in authority on the question presented, petitioners urge this Court to grant certiorari for a separate and broader reason: to comprehensively define the set of sensitive places where firearms may be “altogether prohibited.” *Bruen*, 597 U.S. at 30; see Pet. 7-12. But petitioners identify no “compelling reason[]” to take that step. S. Ct. R. 10. Nor could they. This case is a uniquely poor vehicle to address the law of sensitive places and, in any event, what the petition casts as confusion among the lower courts is simply the “commonplace” process of “[d]iscerning and developing the law.” *Rahimi*, 602 U.S. at 692 (quoting *Bruen*, 597 U.S. at 28). This Court should decline petitioners’ invitation to short-circuit that process by granting review before similar cases have percolated through the lower courts.

1. As a threshold matter, several unique features of this case undercut both its importance and its suitability as a vehicle to address the law of sensitive places generally.

To start, petitioners have misidentified the nature of the question presented by this case. Unlike historical sensitive-place laws, which “altogether prohibited” firearms in the designated locations, *Bruen*, 597 U.S. at 30, the challenged restriction allows transit riders to transport unloaded, secured firearms, facilitating carry both before and after their journeys, see *supra* pp. 3, 5. As the Seventh Circuit explained, that exception “decreases the burden on Second Amendment rights,” Pet. App. 38a, and significantly narrows the scope of the decision below, *cf. Wolford*, 116 F.4th at 1002 (reasoning that constitutionality of public-transit firearm restriction turned on availability of exception for unloaded, secured firearms). In other words, this case would be an unsuitable vehicle to address the circumstances under which a State may completely ban firearms in a particular location.

Further, this case is a poor vehicle for addressing whether looking to shared characteristics among locations — such as confined, crowded spaces or the presence of vulnerable populations — is consistent with *Bruen* because there are also direct historical analogues to the public-transit restriction at issue here. As the Seventh Circuit explained and as detailed further below, *infra* pp. 20-21, the record in this case contains several historical regulations restricting access to firearms on passenger railroads that match the challenged statute in both how and why they restricted the right to bear arms. See Pet. App. 48a-52a; see also *Kipke*, 165 F.4th at 210-211; *Wolford*, 116 F.4th at 1001-1002; *supra* p. 6. There is thus no need to reach the question as framed by petitioners, and this separate historical tradition, which

petitioners fail even to mention, would require affirmation regardless of the merits of their arguments concerning sensitive places generally. The existence of these independent, direct analogues, too, counsels against granting certiorari.

Further, this case presents an unusual standing issue that may prevent the Court from conducting any merits analysis. Respondent Burke has consistently argued that petitioners lack standing because they failed to challenge other rules that independently restrict their ability to carry firearms on public transit, rendering their alleged injuries nonredressable. Pet. App. 9a. Although the Seventh Circuit ultimately rejected this argument, it recognized that the issue required “careful consideration.” *Id.* at 14a; see also *id.* at 67a (St. Eve, J., concurring) (noting that the relevant redressability doctrine “is in flux”). And the Tenth Circuit recently held that a group of plaintiffs lacked standing to challenge a location-based firearm restriction due to a similar redressability problem. See *We the Patriots, Inc. v. Grisham*, 119 F.4th 1253, 1259-1261 (10th Cir. 2024). This unique standing problem, which will not occur in the mine run of cases, also renders this case a poor vehicle.

2. Even if petitioners were correct that this case is an appropriate vehicle to address the law of sensitive places, certiorari would still be unwarranted. Petitioners assert that review is necessary to resolve “confusion” among the lower courts about how to evaluate sensitive-place regulations under *Bruen*. Pet. 9. The only evidence they cite for this purported confusion is the fact that the courts of appeals have not arrived at a “single justification” governing all location-based

firearm restrictions. *Id.* at 10. But this Court’s precedents do not require courts to adopt a “single justification” that could apply to any sensitive-place law. On the contrary, *Bruen* acknowledges that the analysis must be case-specific so as not to define categories “too broadly.” 597 U.S. at 31. In fact, in *Rahimi*, the Court elicited various characteristics from multiple “distinct legal regimes” in determining that a modern statute was constitutional. 602 U.S. at 694; see, e.g., *id.* at 699 (approving duration of restriction based on one regime and severity of sanctions based on another).

Rather than confusion, the nascent sensitive-place caselaw that the courts of appeals have developed since *Bruen* reflects the faithful application of the case-specific analogical reasoning that *Bruen* requires. In ascertaining whether proffered analogues are similar in why they burden the Second Amendment right, the answer may logically vary by location. Thus, petitioners’ criticism of the Second Circuit, for instance, for looking to different analogues in considering restrictions governing bars and zoos, Pet. 10-11 (citing *Antonyuk*, 120 F.4th at 1027, 1029), fundamentally misunderstands the *Bruen* analysis. Moreover, despite the different claims and records presented across cases, several consistent themes have begun to emerge. For example, like the Seventh Circuit below, the Second, Fourth, and Ninth Circuits have noted a tradition of restricting access to firearms in crowded, confined spaces. Pet. App. 29a-35a; *Frey*, 157 F.4th at 132-134; *Antonyuk*, 120 F.4th at 1018-1024; *Kipke*, 165 F.4th at 218; *Wolford*, 116 F.4th at 986-988. And these circuits have also found a tradition of “regulating access to firearms by people . . . who are intoxicated,” including by “prohibiting firearms in

liquor-serving or -selling establishments.” *Antonyuk*, 120 F.4th at 1030; accord *Kipke*, 165 F.4th at 217-218; *Wolford*, 116 F.4th at 985-986.

Nor are petitioners correct that the Seventh and Ninth Circuits have expressed dissatisfaction with their own historical analyses. *Contra* Pet. 11. The Seventh Circuit simply noted that its reasoning was specific to the challenge at issue and cautioned lower courts to carefully apply *Bruen* in future cases to avoid either “vest[ing] too much power in the state’s hands” or striking down legitimate regulations. Pet. App. 45a. “Refus[ing] to say” more than is necessary to decide the case at issue is not an error warranting certiorari, *contra* Pet. 10; it is a “cardinal principle of judicial restraint,” *PDK Lab’ys Inc. v. U.S. DEA*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and concurring in the judgment) (“[I]f it is not necessary to decide more, it is necessary not to decide more . . .”). Indeed, this Court took the same approach in *Bruen*. See 597 U.S. at 30 (declining “to comprehensively define ‘sensitive places’”). The Ninth Circuit, meanwhile, observed that the distinctions it drew between different location-based firearm restrictions in *Wolford* might “appear arbitrary,” but only if viewed without “[t]he deep historical analysis required by [*Bruen*].” 116 F.4th at 1003. In other words, the court emphasized that its holding was rooted in history, not the “judge-empowering interest-balancing” that *Bruen* rejected. 597 U.S. at 22 (cleaned up). Neither statement undermines the lower courts’ reasoning or warrants certiorari.

3. Even setting all these problems aside, granting certiorari would be premature. Few courts of appeals have addressed sensitive-place laws since *Bruen*, and

preventing further percolation “would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question.” *United States v. Mendoza*, 464 U.S. 154, 160 (1984).

Additional percolation would be particularly useful in this context for several reasons. Only five courts of appeals — the Second, Fourth, Fifth, Seventh, and Ninth — have issued nonvacated merits decisions in challenges to sensitive-place laws since *Bruen*. *Supra* pp. 7-8, 8 n.1 (Second, Fourth and Ninth Circuits); *United States v. Allam*, 140 F.4th 289, 295-299 (5th Cir. 2025). Two of those circuits have done so only in appeals from orders granting or denying preliminary injunctions, such that their conclusions were tentative. See *Frey*, 157 F.4th at 124; *Antonyuk*, 120 F.4th at 1048 n.126; *Wolford*, 116 F.4th at 1002-1003. And the Fifth Circuit, like the Seventh, decided only a very narrow issue, rejecting an as-applied challenge to a statute prohibiting firearms in a school zone brought by an individual who “behav[ed] erratically and menacingly,” while “offer[ing] no opinion regarding the [statute’s] constitutionality . . . in any other context.” *Allam*, 140 F.4th at 299-300 (emphasizing that challenger was “visibly threatening”). In addition, the stakes in a constitutional challenge are unusually high: any decision the Court issues “cannot be overruled by statutory amendments.” Stephen M. Shapiro *et al.*, *Supreme Court Practice* § 6.37(i)(1) (11th ed. 2019). Having declined to preemptively “comprehensively define ‘sensitive places’” in *Bruen*, 597 U.S. at 30, this Court should not deny itself the benefit of percolation now.

Indeed, that percolation is already underway. A challenge to New Jersey’s analogous public-transit restriction is pending before the *en banc* Third Circuit. See *Koons*, 162 F.4th at 101. Multiple other States and municipalities — including several in circuits that have not yet addressed claims like petitioners’ — prohibit carry on public transit. See 7th Cir. Doc. 35 at 13-14 (collecting restrictions, including from jurisdictions in First, Eighth, Tenth, and D.C. Circuits). More generally, laws that flatly prohibit carry in certain locations, without providing Illinois’s exception for unloaded or secured firearms, are widespread. See, *e.g.*, *id.* at 12-13 (listing examples). This Court thus will likely have other, better vehicles to address location-based firearm restrictions in future Terms.²

II. The Decision Below Is Consistent With This Court’s Precedents.

Certiorari is unwarranted for the additional reason that the decision below is consistent with this Court’s precedents, and petitioners’ alternative theory is not.

A. The public-transit restriction is consistent with the Nation’s historical tradition in multiple independent ways.

The Seventh Circuit correctly concluded that the public-transit restriction is constitutional both as an

² As petitioners explain, the two Second Amendment cases currently pending before the Court “are very unlikely to shed light on the question presented here or meaningfully assist courts of appeals in deciding the constitutionality” of sensitive-place restrictions. Pet. 26-27; see *United States v. Hemani*, 146 S. Ct. 326 (2025) (mem.); *Wolford v. Lopez*, 146 S. Ct. 79 (2025) (mem.). All parties thus agree that the Court should not hold the petition for either of these pending cases.

analogue of historical sensitive-place regulations and as a descendent of firearm restrictions on nineteenth-century passenger railroads. Petitioners' attempts to rebut those conclusions are meritless.

1. In *Heller* and *Bruen*, this Court recognized a tradition of prohibiting firearms in sensitive places, including courthouses, government buildings, legislative assemblies, polling places, and schools. *Bruen*, 597 U.S. at 30 (citing *Heller*, 554 U.S. at 626). The Seventh Circuit, like other circuits applying this sensitive-place doctrine, properly identified several “principles underlying” these historical laws. *Rahimi*, 602 U.S. at 692. It explained that restrictions in schools, for example, reflected a tradition of regulating access to firearms in locations that “serve[] the vulnerable population of children.” Pet. App. 41a-42a (cleaned up); accord *Antonyuk*, 120 F.4th at 1010-1011; *Kipke*, 165 F.4th at 212, 216. And prohibitions in government buildings like courthouses, legislative assemblies, and polling places reflect “the government’s power to regulate conduct and maintain order on its own property.” Pet. App. 42a; accord *Kipke*, 165 F.4th at 208-211; *Wolford*, 116 F.4th at 970-971.

In addition, based on the record assembled by the parties, the Seventh Circuit correctly joined the Second, Fourth, and Ninth Circuits in holding that, in addition to the sensitive locations identified in *Heller* and *Bruen*, there is “a consistent historical [tradition of] prohibit[ing] firearms in . . . crowded and confined locations.” Pet. App. 29a; accord *Frey*, 157 F.4th at 132-134; *Antonyuk*, 120 F.4th at 1018-1024; *Kipke*, 165 F.4th at 218; *Wolford*, 116 F.4th at 986-988. That tradition stretches as far back as the 1328 Statute of Northampton, which forbade “go[ing] []or rid[ing]

armed by night [] or by day, in Fairs . . . [or] Markets.” 2 Edw. 3 c.3 (Eng.); see Pet. App. 29a. During the Founding era, at least one State, Virginia — the Nation’s largest — adopted a similar statute, 1786 Va. Acts 35, 35, ch. 49, while North Carolina recognized a similar restriction as a matter of common law, see *State v. Huntly*, 25 N.C. 418, 420-421 (1843); see also Pet. App. 29a-30a. And New Orleans built on this history with an 1817 ordinance prohibiting firearms in ballrooms. Pet. App. 30a-31a.³

This tradition continued around the time of the ratification of the Fourteenth Amendment. Shortly before the Civil War, New Mexico “prohibited firearms at any ‘Ball or Fandango’” (that is, “a social gathering like a ball”). Pet. App. 32a-33a (quoting 1852 N.M. Laws 67, 69, § 3). During Reconstruction, “at least four [S]tates” — Georgia, Missouri, Tennessee, and Texas — “passed laws prohibiting weapons in crowded places such as assemblies for educational, literary or scientific purposes, or ball rooms, social parties, or other social gatherings.” Pet. App. 33a (cleaned up) (quoting *Antonyuk*, 120 F.4th at 1020).⁴

³ See New Orleans, La., An Ordinance Respecting Public Balls art. 1 (Oct. 27, 1817), *reprinted in General Digest of the Ordinances and Resolutions of the Corporation of New Orleans* 371 (1831), <https://bit.ly/3Mo9k22>. In 1879, New Orleans expanded this prohibition to cover “any theatre, public hall, tavern, pic-nic ground, place for shows or exhibitions, house or other place of public entertainment or amusement.” *Jewell’s Digest of the City Ordinances of the City of New Orleans* 1 (1882), <https://bit.ly/46PmrQB>; see Pet. App. 34a.

⁴ See 1870 Ga. Laws 421, 421, No. 285, § 1; 1875 Mo. Laws 50, 50-51, § 1; 1869-1870 (1st Sess.) Tenn. Pub. Acts 23, 23-24, ch. 22, § 2; 1870 Tex. Gen. Laws 63, 63, ch. 46, § 1.

In the late 1800s and early 1900s, the territories of Arizona, Montana, and Oklahoma did the same. Pet. App. 34a; accord *Frey*, 157 F.4th at 132-133; *Antonyuk*, 120 F.4th at 1020; *Wolford*, 116 F.4th at 987.⁵

In short, by the turn of the century, at least nine States or territories expressly prohibited the possession of firearms in crowded, confined places. These restrictions “were consistently upheld” by state courts. Pet. App. 33a (collecting cases); see, e.g., *Hill v. State*, 53 Ga. 472, 474, 476 (1874); cf. *Bruen*, 597 U.S. at 68 (describing “judicial scrutiny” as relevant to the analysis). That pattern shows “that regulations in crowded and confined places are ensconced in our [N]ation’s history and tradition.” Pet. App. 35a; accord *Antonyuk*, 120 F.4th at 1021 (“[T]he Nation not only tolerated the regulation of firearms [in crowded and confined spaces], but also found it aberrational that a [S]tate would be unable to regulate firearms . . . in such spaces.”); *Frey*, 157 F.4th at 132-134; *Kipke*, 165 F.4th at 218; *Wolford*, 116 F.4th at 986-988 (all similar).

The Seventh Circuit correctly determined that the public-transit restriction falls within this sensitive-place tradition, as the modern law tracks its historical antecedents “in both why and how it burdens the Second Amendment right.” *Rahimi*, 602 U.S. at 698.

With respect to “how,” the modern law resembles the historical regulations in restricting carry in a discrete, confined area, and in the potential penalties for

⁵ See 1889 Ariz. Sess. Laws 16, 17, No. 13, § 3; 1903 Mont. Laws 49, 49-50, ch. 35, § 3; 1890 Okla. Stats. 412, 496, ch. 25, art. 47, § 7.

violations. See Pet. App. 37a-38a. And it is *less* onerous than the total prohibitions imposed by traditional sensitive-place laws because it allows riders to transport unloaded, secured firearms. *Ibid.*

With respect to “why,” the Seventh Circuit identified several relevant considerations that collectively place the challenged statute well within the Nation’s historical tradition. *Cf. Rahimi*, 602 U.S. at 698-700 (relying on multiple characteristics of collection of historical regulations). First, like the historical laws, the public-transit restriction addresses the heightened risk of violence in crowded, confined spaces. Pet. App. 41a; see Doc. 64-1 at 46-47 (Chicago-area public transit alone serves over 600 million riders annually). Second, the modern law, like historical sensitive-place regulations governing schools, protects a vulnerable population: children, who, “[t]he record shows,” “regularly take public transit.” Pet. App. 41a (“For many students, [public transit] serves as the functional equivalent of a school bus.”); see Doc. 88 at 31-32 (describing fare cards and special fares available to students). Third, like courthouses, legislative assemblies, and polling places, “public transit is owned and operated by the government,” and thus implicates “the government’s power to regulate conduct and maintain order on its own property.” Pet. App. 42a.

This historical support is especially clear under the “more nuanced approach” to analogical reasoning appropriate where, as here, restrictions implicate “dramatic technological changes” or “unprecedented societal concerns.” *Bruen*, 597 U.S. at 27. As the Seventh Circuit observed, the “crowded and confined metal tubes” of modern public transit are “unlike anything the Founders envisioned.” Pet. App. 2a. The Seventh

Circuit thus appropriately looked to “the principles underlying the Second Amendment,” *Rahimi*, 602 U.S. at 692, as illustrated by historical sensitive-place laws, and correctly concluded that those principles render the challenged restriction constitutional.

2. The Seventh Circuit also correctly held that the challenged law is consistent with a historical tradition of restricting firearms on passenger railroads. Pet. App. 48a-52a; accord *Kipke*, 165 F.4th at 210-211; *Wolford*, 116 F.4th at 1001-1002. As one of the State’s expert historians explained, although public transit did not exist during the Founding or Reconstruction eras, private passenger trains began appearing in the nineteenth century, and at least six major companies that provided this service restricted access to firearms on their trains. See Pet. App. 50a; Doc. 64-11 at 25-26; see also Joshua Hochman, Note, *The Second Amendment on Board: Public and Private Historical Traditions of Firearm Regulation*, 133 Yale L.J. 1676, 1690-1696 (2024). These railroad rules “prohibited passengers from carrying ‘guns,’ or required guns to be kept ‘in cases and not loaded,’ or forced guns to be checked as baggage.” Pet. App. 50a; see Hochman, *supra*, at 1690-1696. And they were not controversial. On the contrary, “[a]cross state courts in the nineteenth century, it went unquestioned that railroads had the authority to protect the safety of their passengers through regulation.” Hochman, *supra*, at 1690 & n.77 (collecting cases); accord Pet. App. 51a. This history is “compelling evidence” of an established tradition, dating to the advent of rail technology, of prohibiting the carriage of loaded or unsecured firearms on passenger railroads. Pet. App. 52a (cleaned up).

As the Seventh Circuit recognized, these rules are “straightforward” analogues for the challenged statute in both how and why they burden the Second Amendment right. *Id.* at 50a; see *id.* at 50a-51a. Like the modern regulation, the historical rules “prohibit[ed] passengers from carrying readily accessible guns in passenger compartments.” *Kipke*, 165 F.4th at 211; accord Pet. App. 50a; *Wolford*, 116 F.4th at 1001. And they did so for the same reason: “concern for public safety in confined, discrete, fast-moving vehicles.” Pet. App. 51a; see, e.g., *Poole v. N. Pac. R. Co.*, 19 P. 107, 108 (Or. 1888) (discussing railroad “safety” rules). This direct set of analogues provided an independent basis for the decision below.

3. Petitioners’ counterarguments are unpersuasive. Most obviously, they entirely ignore the railroad rules and the Seventh Circuit’s corresponding analysis. See Pet. 20-26. But they fail to rebut even those points they do address.

Petitioners first claim that the tradition of firearm prohibitions in crowded, confined spaces conflicts with the “principles underlying the Second Amendment.” *Id.* at 21 (quoting *Rahimi*, 602 U.S. at 692). But this argument merely begs the question: this Court has instructed lower courts to look to history to determine those principles, see, e.g., *Rahimi*, 602 U.S. at 692, and that history establishes a tradition of regulation in crowded, confined spaces. The decision below appropriately relied on that tradition, and not a generalized belief that “[f]irearms are dangerous.” Pet. App. 44a. *Contra* Pet. 22. Indeed, assessing the historical treatment of firearms “in this kind of place,” as the Seventh Circuit did, Pet. App. 44a (cleaned up), is the

entire point of the sensitive-places doctrine, see *Bruen*, 597 U.S. at 30.

Petitioners also mischaracterize the relevant principle. Illinois does not seek to “disarm [concealed carry licenseholders] for their protection.” *Contra* Pet. 22 (cleaned up). Rather, the challenged law, like its historical predecessors, recognizes that “[f]irearms are exceptionally dangerous and lethal in confined areas with a high density of people,” and thus prohibits the carry of loaded, accessible firearms for the safety of *all* transit riders. Pet. App. 41a.

Nor does *Bruen*’s observation that “the island of Manhattan [does not qualify as] a ‘sensitive place’ simply because it is crowded,” 597 U.S. at 31, undercut this tradition. *Contra* Pet. 21. This Court made clear that crowdedness alone is not sufficient to render a place sensitive, but it did not hold that it is irrelevant to the analysis. Instead, the Court directed lower courts to review modern laws on a location-by-location basis to determine whether they are analogous to historical regulations. *Bruen*, 597 U.S. at 30. The Seventh Circuit followed that direction here. And the tradition of regulation in crowded, confined spaces that it recognized bears no resemblance to a prohibition on carry in an entire borough of New York City in either “how [or] why” it burdens the Second Amendment right. *Id.* at 29. Laws within this tradition limit carry in discrete, confined areas because, when they are also densely populated, such spaces have “unique physical characteristics” that make it difficult to avoid or escape gunfire. Pet. App. 40a. That concern does not apply to the entirety of Manhattan.

Petitioners' objections to specific historical analogues are also meritless. To begin, they argue that the Statute of Northampton and colonial laws modeled on it are irrelevant because *Bruen* declined to rely on them as support for a broad restriction on public carry. Pet. 22-23. But “[t]he conclusion that [a historical regulation is] . . . not a historical analogue for a broad prohibitory regime like New York’s [in *Bruen*] does not mean that [it] cannot be an appropriate analogue for a narrow one.” *Rahimi*, 602 U.S. at 700; see *id.* at 697-699 (analogizing to Statute of Northampton and related laws). And, as the Seventh Circuit explained, the Statute of Northampton and its progeny “demonstrate that the American tradition has long approved of firearm restrictions that are triggered by carrying in a crowded space, even if another condition is required to complete the violation.” Pet. App. 30a. In other words, they illustrate a relevant “principle[] underlying the Second Amendment,” *Rahimi*, 602 U.S. at 692, for which the decision below properly accounted.⁶

The Seventh Circuit also properly relied on Reconstruction-era evidence. *Contra* Pet. 23. States are “bound to respect the right to keep and bear arms because of the Fourteenth Amendment,” *Bruen*, 597 U.S. at 37, and this Court has repeatedly looked to evidence from that era in assessing the scope of the Second Amendment right while declining to rely on sources “that long predate[] *either*” 1791 or 1868, *id.* at 34 (emphasis added); see, e.g., *id.* at 51-57, 60-66 (analyzing nineteenth-century sources); *Heller*, 554

⁶ As discussed below, *infra* pp. 26-27, petitioners' reliance on a separate section of the Statute of Northampton is also misplaced.

U.S. at 614-619 (similar). At minimum, post-ratification history that does not “contradict[]” earlier authorities can demonstrate a continuing historical tradition. *Bruen*, 597 U.S. at 36. There is no contradiction here; as the Seventh Circuit observed, the record instead contains “compelling evidence of a consistent regulatory practice from ratification onward.” Pet. App. 52a (cleaned up). Thus, petitioners are wrong when they assert that *Bruen* disregarded evidence “similar” to that discussed by the Seventh Circuit. Pet. 23. They rely on the Court’s rejection of certain territorial laws that contradicted “the overwhelming evidence of an otherwise enduring American tradition permitting public carry,” 597 U.S. at 67, and “were rarely subject to judicial scrutiny,” *id.* at 68. As explained, there is no such contrary evidence here.

Petitioners similarly do not rebut the tradition concerning vulnerable populations. Petitioners assert that historical firearm restrictions in schools were not protective, but rather applied only to students as an exercise of *in loco parentis* authority. Pet. 25-26. But that claim flies in the face not only of the historical record — which shows that an array of States and territories barred not just students but “any person” from carrying firearms in schools, *e.g.*, 1870 Tex. Gen. Laws 63, 63, ch. 46, § 1; see Pet. App. 33a; *supra* pp. 17-18 — but also of *Heller* and *Bruen*, which unambiguously identified schools as locations “where weapons were *altogether prohibited*,” *Bruen*, 597 U.S. at 30 (emphasis added); accord *Heller*, 554 U.S. at 626. And petitioners’ reliance on historical laws permitting or requiring carry at certain public assemblies is no more successful. As discussed below, *infra* pp. 28-30,

those laws are poor analogues under *Bruen* — particularly with respect to areas frequented by children, to whom those laws generally did not apply, see Nicholas J. Johnson *et al.*, *Firearms Law and the Second Amendment* 106-108 (1st ed. 2012) (describing laws applying to “men”), and who would, both historically and today, often be ineligible to carry firearms anywhere due to age, *e.g.*, *Nat’l Rifle Ass’n v. Bondi*, 133 F.4th 1108, 1123 (11th Cir. 2025) (*en banc*), *petition for cert. filed*, No. 24-1185 (U.S.). None of petitioners’ arguments rebut the Seventh Circuit’s analysis.

B. Petitioners’ sensitive-place theory defies precedent, history, and common sense.

Finally, petitioners’ alternative theory of sensitive places as locations where the government provides “comprehensive . . . security,” Pet. 20, is untenable. That theory — which the courts of appeals have uniformly rejected — is impossible to square with precedent, history, or “common sense.” *Rahimi*, 602 U.S. at 698; see Pet. App. 23a-26a (rejecting this theory); *Kipke*, 165 F.4th at 223 n.2 (Agee, J., concurring in part and dissenting in part) (“[T]his argument rests on questionable factual support, [and] it more fundamentally lacks foundation in the Supreme Court’s cases.”); *Wolford*, 116 F.4th at 981 (similar); *United States v. Class*, 930 F.3d 460, 465 (D.C. Cir. 2019) (“[W]e do not look to the ‘level of threat’ posed in a sensitive place.”), *abrogated on other grounds by Bruen*, 597 U.S. 1. It thus does not call into question the Seventh Circuit’s decision.

To begin, petitioners’ argument “flatly contradicts” this Court’s precedents. *Wolford*, 116 F.4th at 981. Despite asserting that comprehensive security is the

“single unifying feature that is shared across all legitimately ‘sensitive places,’” Pet. 12, petitioners do not even attempt to show that their theory accounts for schools, which both *Bruen* and *Heller* identified as sensitive places, *Bruen*, 597 U.S. at 30; *Heller*, 554 U.S. at 626. Nor could they. See, e.g., *Wolford*, 116 F.4th at 981 (observing that there is no history of comprehensive security in schools).

Further, as the Seventh Circuit explained, Pet. App. 24a-26a, petitioners’ historical evidence is lacking even with respect to the locations they do attempt to address — courthouses, legislative assemblies, and polling places.

First, petitioners fall well short of demonstrating a historical tradition of comprehensive security in courthouses. Petitioners rely on an assortment of statutes assigning sheriffs and constables various roles in court proceedings. Pet. 15. As the Seventh Circuit explained, these laws did not require those officers to provide security for the public, but instead gave them “administrative responsibilities,” such as executing judgments, managing juries, and serving process or writs. Pet. App. 25a & n.17.⁷ Nor do the Statute of Northampton or a Virginia law modeled on it support petitioners’ view. *Contra* Pet. 16-17. Those laws excepted royal or judicial officers from general

⁷ See, e.g., *Laws of the State of New Jersey* 50 (1811) (1798 New Jersey statute making constables “ministerial officers of the . . . court” responsible for “execut[ing] and return[ing] all precepts, summons, warrants, writs and other process”).

prohibitions on carry near the king or in court but, again, did not provide any security for the public.⁸

Similarly, for legislative assemblies, petitioners cite inapposite statutes appointing or setting daily pay for doorkeepers or sergeants-at-arms for legislative bodies. *Id.* at 12-13. Those statutes — which often contemplated irregular attendance — did not specify how often those individuals would attend legislative sessions, identify their duties, require them to be armed, or even mention security. Pet. App. 24a.⁹ Other historical evidence demonstrates that these roles did not focus on security: for example, the duties of one doorkeeper for Maryland’s House of Delegates, Cornelius Mills, “included supplying wood for the use of the [legislature] and maintaining the furniture.”¹⁰ And, while petitioners purport to identify a single incident in which the doorkeeper of the Maryland legislature turned away armed visitors, Pet. 14, their own source states that “the Burgesses” — that is, the legislators themselves — denied the individuals entry.¹¹

⁸ See Statute of Northampton 1328, 2 Edw. 3 c.3 (Eng.); 1786 Va. Acts 35, 35, ch. 49.

⁹ See *Extracts from the Journal of Proceedings of the Provincial Congress of New Jersey* 240 (Joseph Sailer 1835) (1775 New Jersey ordinance setting doorkeeper’s pay “for each day that he hath or shall attend”).

¹⁰ *Cornelius Mills (c.1755-1823)*, Archives of Md., <http://bit.ly/3LKqBCh> (last visited Feb. 16, 2026). While serving as doorkeeper and, later, as sergeant-at-arms, Mills also worked “as a carpenter/joiner, ran a boardinghouse, and advertised his experience as an auctioneer,” *ibid.* — not roles requiring any security expertise.

¹¹ Raphael Semmes, *Captains and Mariners of Early Maryland* 286 (1937), <https://bit.ly/4k6Qjh1>.

As the Seventh Circuit observed, the measures petitioners identify “would be less-than-adequate to stave off violence.” Pet. App. 24a.

The historical laws petitioners cite concerning polling places, Pet. 14-15, also do not demonstrate a tradition of comprehensive security. Rather, as the Seventh Circuit noted, the record shows that officers’ “role was largely to help run elections rather than provide security.” Pet. App. 25a. In other words, States traditionally required sheriffs to staff the polls and announce results — not screen visitors for firearms.¹²

Thus, the Seventh Circuit correctly rejected petitioners’ argument that there is a tradition of meaningful security at courthouses, legislative assemblies, or polling places. At most, the historical record shows that some of these places sometimes had a law-enforcement officer present, almost always for non-security reasons. This history of “lax and irregular security practices,” *id.* at 24a, does not provide a “unifying principle” for sensitive places. *Contra* Pet. 19.

Historical laws permitting or requiring carry at certain public assemblies, *id.* at 18-19, do not alter the analysis. To start, the cited statutes are poor analogues under *Bruen*. See *Wolford*, 116 F.4th at 997. The laws sought to promote collective defense against perceived external threats, and thus “differ from [the public-transit restriction] in ‘how’ and ‘why’ they burden[ed] the right to bear arms.” *Ibid.* (quoting *Bruen*, 597 U.S. at 29). For instance, the seventeenth-

¹² See, e.g., 2 *Laws of the State of Delaware* 984-986 (1797) (1790 statute requiring sheriffs to announce elections; “attend, conduct, and regulate” polling; and deliver results).

century laws reflected a fear of attacks by Native Americans on the colonial frontier. *Ibid.*; see, e.g., Johnson *et al.*, *supra*, at 106 (1643 Connecticut law requiring carry in church “[t]o prevent or withstand such sudden assaults as may be made by Indians [sic]”). And southern legislators intended the eighteenth-century laws to provide “for the better security of [white populations] against the insurrections and other wicked attempts of Negroes and other Slaves.” Johnson *et al.*, *supra*, at 108 (quoting 1743 South Carolina statute); see *Wolford*, 116 F.4th at 997. None of these sources shed light on the scope of a right to individual self-defense in modern cities, where people will not encounter the perceived external collective threats to which the laws responded.

Further, petitioners’ argument rests on the “flawed” “assumption[]” that “founding-era legislatures maximally exercised their power to regulate.” *Rahimi*, 602 U.S. at 739-740 (Barrett, J., concurring). Historical legislatures, no less than modern ones, were entitled to make different policy choices within constitutional bounds. That some historical policymakers chose to require carry at certain assemblies does not mean that others could not make a different choice, and the historical record establishes that many did so by restricting access to firearms in ways analogous to the public-transit restriction. See *supra* pp. 16-20. Petitioners’ evidence at most shows that Illinois *could* allow carry on public transit — something no one disputes. It does not mean “that there can *never* be a restriction of a firearm on public transit.” Pet. App. 125a.

Perhaps recognizing the precedential and historical problems with their theory, petitioners fall back to an

argument that their view reflects “common sense.” Pet. 19. Quite the opposite. The implications of petitioners’ position are startling. For example, under their reasoning, any adult not otherwise disqualified from public carry would have a constitutional right to bring a loaded, accessible handgun into a public kindergarten. Or to a polling place if, like most polling places, see *Wolford*, 116 F.4th at 981, it lacked comprehensive security. Precedent, history, and “common sense” confirm that that is not the law. *Rahimi*, 602 U.S. at 698.

CONCLUSION

The petition for a writ of certiorari should be denied.

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