

**IN THE SUPREME COURT OF PENNSYLVANIA**

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**No. 19 EAP 2022**

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**STANLEY CRAWFORD ET AL.,**  
*Petitioners,*

**v.**

**THE COMMONWEALTH OF  
PENNSYLVANIA ET AL.,**  
*Respondents.*

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**Brief of Amicus Curiae City of Pittsburgh**

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## Introduction and Summary of the Argument

The City of Pittsburgh (“Pittsburgh” or the “City”) suffers from the gun violence epidemic that plagues this Commonwealth’s cities. Pittsburgh has also experienced how the Commonwealth’s two firearms preemption statutes, 18 Pa.C.S. § 6120 (a) and 53 Pa.C.S. § 2962 (g) (together the “Firearms Preemption Statutes”) have been interpreted and applied to hamstring the City’s efforts to protect its citizens with even narrowly crafted ordinances. Pittsburgh thus supports the Petitioners’ claims that the Firearms Preemption Statutes, which prohibit municipalities from passing large categories of commonsense gun-violence-prevention laws, have forged a state-created danger.

Through this amicus brief, Pittsburgh brings to this Court’s attention a critical threshold issue: that the Firearms Preemption Statutes can and should be interpreted more narrowly than they have been by the Commonwealth Court. The Firearms Preemption Statutes, by their plain language, prevent local governments from regulating the “ownership, possession, transfer or transportation of firearms.” 18 Pa.C.S. § 6120(a); *see also* 53 Pa.C.S. § 2962(g) (same four categories). Notwithstanding the limitations in the text, the Commonwealth Court recently expressed the view—in a case that this Court is holding in abeyance pending the outcome of the instant case—that “the regulation of firearms is an area where legislative activity is vested singularly and absolutely in the General Assembly of the Commonwealth,” and does not allow for any local regulation of firearms. *Firearm Owners Against Crime v. City of Pittsburgh*, 276 A.3d

878, 886 (Pa. Commw. Ct. 2022). In reaching this sweeping holding, the Commonwealth Court relied on a single out-of-context sentence from this Court’s decision in *Ortiz v. Commonwealth*, 681 A.2d 152 (Pa. 1996), stating that “the General Assembly, not city councils, is the proper forum” for firearms regulation. *Id.* at 156. This single line of dictum has been used to expand the Firearms Preemption Statutes well beyond their plain and specific texts.

The time has come for this Court to clarify that *Ortiz* does not stand for the proposition that firearms field preemption exists in Pennsylvania as the Commonwealth Court has found. Indeed, in a series of cases, including this one, four judges of the Commonwealth Court have “urge[d]” this Court “to either overturn or rein in the reach of *Ortiz*.” See *Firearm Owners Against Crime*, 276 A.3d at 901 (Ceisler, J., concurring and dissenting, joined by Cohn Jubelirer, P.J. and Wojcik, J.); *Crawford v. Commonwealth*, 277 A.3d 649, 679 (Pa. Commw. Ct. 2022) (Ceisler, J., dissenting, joined by Wojcik, J.) (“Perhaps it is time for our Supreme Court to revisit *Ortiz* in light of these circumstances.”); *id.* at 692 (Cohn Jubelirer, P.J., concurring) (“The novel constitutional arguments raised by the Petitioners may provide a basis for our Supreme Court to reconsider the breadth of the *Ortiz* doctrine and allow for local restrictions narrowly tailored to local necessities.”); *City of Philadelphia v. Armstrong*, 271 A.3d 555, 569 (Pa. Commw. Ct. 2022) (Leadbetter, J., concurring) (“I would urge our Supreme Court to reconsider the breadth of the *Ortiz* doctrine and allow for local restrictions narrowly tailored to local necessities.”).

There has never been a more urgent time for this Court to clarify its *Ortiz* decision and how to the text of the Firearms Preemption Statutes. As explained in this brief, gun violence takes a horrific human toll on Pittsburgh's residents. The City has a duty to protect its residents and the Firearms Preemption Statutes, as currently interpreted, have stood in the way of that duty. As Judge Leadbetter recently explained in a concurring opinion, "[w]hen a child cannot leave his home to walk to the corner of his street without risking the prospect of being caught in a crossfire, we are denying him the most fundamental right, that of life and liberty." *Armstrong*, 271 A.3d at 569. Pittsburgh urges this Court, as the dissenters below did, "to revisit *Ortiz* in light of" the fact that "gun violence in our country and in our Commonwealth has reached epidemic levels and is wreaking havoc on the lives of the individual Petitioners and their families," as well as many other residents of Pittsburgh. *Crawford*, 277 A.3d at 692.

### **Statement of Interest**

Pittsburgh is the second largest city in the Commonwealth of Pennsylvania with over 300,000 residents and a metropolitan area population of more than 2.3 million people. It is designated a City of the Second Class by Statute, *see* 53 P.S. §§ 23101 *et seq.*, and in 1974 adopted a Home Rule Charter. Pittsburgh, like many cities in this Commonwealth, experiences the nation's gun violence epidemic acutely. Pittsburgh has passed gun-safety ordinances to combat this problem. The City currently has two petitions for review related to the Firearms Preemption Statutes that are being held in abeyance pending the outcome of the instant case. *See* Sep. 20, 2022 Order in *Firearm*



*Owners Against Crime v. City of Pittsburgh*, No. 174 WAL 2022 and *Anderson v. City of Pittsburgh*, No. 175 WAL 2022.

Pittsburgh is steadfastly dedicated to combatting gun violence and protecting the safety of its residents. The Firearms Preemption Statutes—as currently (mis)construed by the Courts of this Commonwealth—are barriers to the City carrying out this foundational duty.

### **Argument**

#### **A. The Court should clarify its decision in *Ortiz v. Commonwealth*, which has been relied on by the Commonwealth Court to strike down nearly all gun-safety measures passed by cities.**

As President-Judge Cohn Jubelirer noted in her concurrence below in this case, “[t]he novel constitutional arguments raised by Petitioners may provide a basis for our Supreme Court to reconsider the breadth of the *Ortiz* doctrine[ ] and allow for local restrictions narrowly tailored to local necessities.” *Cranford*, 277 A.3d at 679 (Jubelirer, P.J., concurring). This is because the majority opinion below assumed that *Ortiz* stood for the proposition that Section 6120 created firearms field preemption. *See id.* at 674–76. This reading of *Ortiz* was confirmed one day later when the Commonwealth Court issued its opinion in an appeal brought by the City of Pittsburgh, holding that “the General Assembly has, indeed, expressed its unambiguous intention to preempt the entire field of firearm regulation.” *Firearm Owners Against Crime*, 276 A.3d at 897.

In evaluating the Petitioners’ claims, this Court must first determine the scope of firearms preemption in Pennsylvania and should do so either in this case or in the

cases Pittsburgh has petitioned this Court to take, which are being held in abeyance pending the outcome of the instant case. *See* Sep. 20, 2022 Order in *Firearm Owners Against Crime v. City of Pittsburgh*, No. 174 WAL 2022 and *Anderson v. City of Pittsburgh*, No. 175 WAL 2022. Returning to first principles, the Firearms Preemption Statutes by their plain and clear language do not create field preemption. The General Assembly, moreover, has expressly authorized municipalities to pass certain types of firearms ordinances, undercutting the notion that it preempted the entire field of firearms regulation.

This section first examines the plain language of the statute and then delves into the way in which *Ortiz* has been overread and misapplied by the lower courts.

**1. The texts of the Firearms Preemption Statutes are limited in scope and do not create firearms field preemption.**

As this Court often repeats, the first step in interpreting a statute is to examine its plain language. *Pennsylvania Rest. & Lodging Ass'n v. City of Pittsburgh*, 211 A.3d 810, 822 (Pa. 2019). When that language is clear, as here, the inquiry “begins and ends with the plain language of the statute,” *id.*, as courts have no power to “add words” or expand a statute’s “scope and operation” through the guise of statutory interpretation. *Commonwealth v. Segida*, 985 A.2d 871, 875 (Pa. 2009).

The two Firearms Preemption Statutes are clear and limited in scope. Section

2962(g) restricts the authority of most home-rule municipalities,<sup>1</sup> like Pittsburgh, stating: “A municipality shall not enact any ordinance or take any other action dealing with the regulation of the *transfer, ownership, transportation or possession of firearms.*” 53 Pa.C.S. § 2962(g) (emphasis added). Section 6120 provides: “No county, municipality or township may in any manner regulate the *lawful* ownership, possession, transfer or transportation of *firearms, ammunition or ammunition components when carried or transported* for purposes not prohibited by the laws of this Commonwealth.” 18 Pa.C.S. § 6120(a) (emphasis added). Thus, Section 6120 is broader in that it covers “ammunition [and] ammunition components,” but it also contains two additional textual limitations: (1) it is limited only to “lawful” conduct and (2) applies only when a firearms, ammunition, or ammunition components are “carried or transported for purposes not prohibited by the laws of this Commonwealth.” *Id.*

Put together, the plain texts of the Firearms Preemption Statutes are clear—they preempt four categories of firearms regulation: (1) ownership; (2) possession; (3) transfer; and (4) transportation. *See* 18 Pa.C.S. § 6120(a); 53 Pa.C.S. § 2962(g). Based on the plain language, local governments cannot regulate in the four enumerated areas; but outside of those four areas, local governments retain their power.

The statutes’ limitations to these four categories matter because the “inclusion

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<sup>1</sup> Philadelphia, a city of the first class, is only constrained by Section 6120; 53 Pa. C.S. § 2962(g) does not apply to Philadelphia. *See* 53 Pa.C.S. § 2901(b).

of a specific matter in a statute implies the exclusion of other matters.” *Atcovitz v. Gulph Mills Tennis Club, Inc.*, 812 A.2d 1218, 1223 (Pa. 2002). “[A]lthough one is admonished to listen attentively to what a statute says[,] one must also listen attentively to what it does not say.” *Pilchesky v. Lackawanna Cnty.*, 88 A.3d 954, 965 (Pa. 2014) (quoting *Commonwealth v. Johnson*, 26 A.3d 1078, 1090 (Pa. 2011)). Neither of the statutes preempts any other kind of ordinance outside of these four categories, unlike preemption statutes in other states. For example, many other states across the country have expressly regulated firearms ordinances relating to “use” and “storage.”<sup>2</sup> The General Assembly also could have simply stated that it was preempting the entire field, like other states have done—but again, it did not. *See, e.g.*, Okla. Stat. Ann. tit. 21, § 1289.24 (“The State Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way firearms, air powered pistols, air powered rifles, knives, components, ammunition and supplies to the complete exclusion of any order, ordinance or regulation by any municipality or other political subdivision of this state.”).

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<sup>2</sup> State statutes explicitly preempting local laws that regulate the “use” of firearms include: Alaska Stat. § 29.35.145(a); Ariz. Rev. Stat. § 13-3108; Me. Stat. tit. 25, § 2011(2); Mo. Rev. Stat. § 21.750(2); Mont. Code Ann. § 45-8-351(1); N.H. Rev. Stat. Ann. § 159:26(I); Okla. Stat. tit. 21, § 1289.24(B); Ore. Rev. Stat. § 166.170; Tenn. Code Ann. § 39-17-1314(a); Utah Code Ann. § 53-5a-102(6); and Wis. Stat. § 66.0409(2).

State statutes explicitly preempting local laws that regulate the “storage” of firearms include: Ariz. Rev. Stat. Ann. § 13-3118(A); Idaho Code § 18-3302J(2); Ind. Code § 35-47-11.1-2; Ky. Rev. Stat. Ann. § 65.870(1); Nev. Rev. Stat. § 268.418(1)(b).

In the absence of explicit field preemption language, as here, the Pennsylvania Supreme Court has mandated a stringent bar for implied field preemption. *Hoffman Mining Co., Inc. v. Zoning Hearing Bd. of Adams Twp.*, 32 A.3d 587, 593 (Pa. 2011). This Court demands “clarity” “because of the severity of the consequences” of finding field preemption—extinguishing all local democratic power “in that area.” *Id.* Thus far, this “Court has determined that the General Assembly has evidenced a clear intent to totally preempt local regulation in only three areas: alcoholic beverages, anthracite strip mining, and banking.” *Id.* As explained below, the Commonwealth Court has effectively added “firearms” to this list, which was enumerated long after this Court’s *Ortiz* decision. That error warrants correction by this Court.

Here, far from evincing “clear intent” to preempt the “entire field,” the General Assembly has in fact *granted* local governments, like Pittsburgh, express authority “to regulate, prevent and punish the discharge of firearms” in public areas within their borders. 53 P.S. § 23131; *see also id.* § 3703 (granting power “to regulate or to prohibit and prevent . . . the unnecessary firing and discharge of firearms” in public places). In the face of these statutes, it is wrong to say that the Legislature’s “clear intent” was to preempt the entire field. These statutes are *in pari materia* with the Firearms Preemption Statutes—i.e., “[o]n the same subject,” *In Pari Materia*, Black’s Law Dictionary (11th ed. 2019)—and thus should be treated “as one statute.” 1 Pa.C.S. § 1932(b). These statutes can be easily harmonized by limiting the Firearms Preemption Statutes to the four categories they preempt. *See Municipal Control Over Hunting*, 17 Op. Att’y Gen. 64 Pa. D.

& C.2d 233, 236-37, 1974 WL 377832 (“It appears clear from [53 P.S. §§ 23131, 3703, 37403(26)] that most cities are given the right to control to a certain extent the discharge of weapons subject to prevailing State law.”).

In short, the General Assembly did not “clearly evidence” an intent to preempt the field. *Hoffman Mining*, 32 A.3d at 593. Instead, the General Assembly preempted certain categories of firearms regulations but expressly left other categories within the ambit of local regulation. As explained below, the lower courts have strayed from this plain-text reading of the statutes. Pittsburgh urges this Court to reexamine the statutes and clarify that the General Assembly has not preempted the entire field of firearms regulation.

## **2. This Court’s *Ortiz* decision has been incorrectly interpreted to create field preemption.**

A single line in dictum from *Ortiz* has led to the current interpretation of the Firearms Preemption Statutes: “[R]egulation of firearms is a matter of concern in all of Pennsylvania, not merely in Philadelphia and Pittsburgh, and the General Assembly, not city councils, is the proper forum for the imposition of such regulation.” *Ortiz*, 681 A.2d at 156. Taken in isolation, this may sound like a declaration of field preemption. But in context, it is not.

*Ortiz* considered municipal laws that purported to “regulate the *ownership* of so-called assault weapons,” despite the State’s then newly modified preemption statute—Section 6120. *Id.* at 154-55 (emphasis added). Critically, the assault weapons ban in *Ortiz*

“undisputed[ly]” fell within the *scope* of Section 6120, but Philadelphia and Pittsburgh challenged the *validity* of Section 6120. *Id.* at 154. The cities argued that the Legislature had no power to pass a firearm preemption statute because a home-rule municipality could not be deprived of its ability to protect its citizens from violence. *Id.* at 155-56. That alone was at issue. Notably, that argument was distinct from the constitutional issues now raised by the Petitioners in this case.

The *Ortiz* Court reasoned that because firearm ownership is constitutionally protected, firearm legislation is a proper subject of statewide legislation and observed that “the General Assembly, not city councils, is the proper forum” for regulation regarding “ownership of firearms.” *Id.* at 156. The Court, however, neither considered whether the scope of preemption extended beyond the statute’s text nor identified the requisite “clear[] evidence” that the Legislature intended field preemption. *See Hoffman Mining*, 32 A.3d at 593. Neither was at issue.

Nevertheless, the Commonwealth Court has improperly used this sentence out-of-context to stand for the idea that city halls can *never* touch firearms. In *Clarke v. House of Representatives*, 957 A.2d 361 (Pa. Commw. Ct. 2008), the Commonwealth Court cited the *Ortiz* dictum for the proposition that “binding precedent” has “made clear” that firearms regulation “is an area of statewide concern over which the General Assembly has assumed *sole* regulatory power.” *Id.* at 364 (emphasis added). In another case the Commonwealth Court lamented that while it “may agree” that the language of the

preemption statutes did not dictate field preemption, “[u]nfortunately” it was bound by *Ortiz*. See *Nat’l Rifle Ass’n v. City of Philadelphia*, 977 A.2d 78, 82 (Pa. Commw. Ct. 2009).<sup>3</sup>

The Commonwealth Court’s extratextual reading of *Ortiz* was recently relied on to strike down Pittsburgh’s narrowly crafted firearms ordinances that did not intrude on the four preempted areas. As explained in more detail in Section II(B), *infra*, Pittsburgh passed ordinances that regulated the “use” of assault weapons and large capacity magazines—a non-preempted area. See *Firearm Owners Against Crime*, 276 A.3d at 891-92. Nonetheless, the Commonwealth Court held that the Firearms Preemption Statutes “transcend[] the simple acts of ‘ownership, possession, transfer or transportation”” and rejected “textually based arguments,” as it noted the courts had done in other cases. *Id.*

In another recent decision, *City of Philadelphia v. Armstrong*,<sup>4</sup> the Commonwealth Court found preempted Philadelphia’s ordinance that imposes a fine on those who do not report lost or stolen firearms. 271 A.3d at 563. The court rejected the argument that Section 6120 is limited by the phrase “when carried or transported,” even though the

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<sup>3</sup> A footnote in this Court’s decision in *Commonwealth v. Hicks*, 208 A.3d 916 (Pa. 2019), likewise cites *Ortiz* in referring to the “General Assembly’s reservation of the exclusive prerogative to regulate firearms in this Commonwealth.” *Id.* at 926 n.6. But that case was about the legality of searches and seizures and cited *Ortiz* only in noting that firearms licensing laws are prescribed by state law, not municipal ordinances. *Id.* It did not address preemption; the footnote is passing dicta.

<sup>4</sup> Philadelphia has petitioned this Court to review that case, but that petition is being held pending the disposition of the instant case. August 30, 2022 Order, *City of Philadelphia v. Armstrong*, No. 81 EAL 2022 (Aug. 30, 2022).



text of the law makes clear it is so limited. *Id.* The Court held that “in light of [*Ortiz*’s] broad and unqualified language” it would not give effect to Section 6120’s textual limitations. *Id.* (quoting *Clarke*, 957 A.2d at 364). The reasoning in *Armstrong* followed other cases concerning Philadelphia ordinances, where the Court did not give effect to Section 6120’s limitations to ordinances that affect only “lawful” conduct “when carried or transported.” *See Clarke*, 957 A.2d at 364; *NRA v. Philadelphia*, 977 A.2d at 82.<sup>5</sup>

Through these cases, the statutes have been divorced from—and expanded well beyond—their text. This expansive interpretation has been used to strike down even modest gun-violence-prevention measures and has contributed to the state-created danger the Petitioners bring to this Court’s attention in this case. This Court should take the opportunity either to clarify *Ortiz* and permit cities to pass reasonable gun-safety measures in accordance with the text of the Firearms Preemption Statutes or to strike down these laws as unconstitutional under the theories the Petitioners have explained.

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<sup>5</sup> To be sure, some cases suggest that *Ortiz* does not stand for such a sweeping proposition. The Commonwealth Court, for example, has rejected firearms preemption challenges and upheld local regulation of firearms at least twice—holdings that are incompatible with field preemption. *See, e.g., Minich v. Cty. of Jefferson*, 869 A.2d 1141 (Pa. Commw. Ct. 2005) (upholding an ordinance designed to keep guns out of court facilities); *Gun Range, LLC v. City of Philadelphia*, No. 1529 C.D. 2016, 2018 WL 2090303, at \*6 (Pa. Commw. Ct. May 7, 2018) (upholding a zoning regulation affecting the location of gun shops). This adds further reason for the Court to clarify *Ortiz*’s scope, as the state of the law remains in flux.

**B. The Firearms Preemption Statutes prevent Pittsburgh from protecting its citizens, which harms families and disproportionately affects people of color.**

Pittsburgh is all too familiar with the ways in which the Firearms Preemption Statutes restrict municipalities when they try to act to protect their residents. This section recounts the efforts Pittsburgh has taken to combat gun violence, the ways in which the Firearms Preemption Statutes have frustrated those efforts, and the consequences of preventing Pittsburgh from enacting life-saving ordinances.

On October 27, 2018, a gunman armed with an assault rifle and three semi-automatic pistols entered the Tree of Life Synagogue in the Squirrel Hill neighborhood of Pittsburgh. The result was tragic: he opened fire on worshipers, murdering 11 people and injuring six others, including four police officers.

Following this horrific mass shooting, a robust discussion and debate over gun violence prevention was sparked in Pittsburgh as many residents demanded that their local officials act. Hearing the calls, Pittsburgh's democratically elected leaders considered passing ordinances that would outright prohibit assault weapons and large-capacity magazines. But the City Council, constrained by the Firearms Preemption Statutes, opted to enact more limited ordinances: First, the City passed significantly narrower reforms that regulated only the "use" of assault weapons and large capacity magazines in public places. Pittsburgh, Pa. Ordinance 2018-1218 (Apr. 2, 2019); Pittsburgh, Pa. Ordinance 2018-1219 (Apr. 2, 2019). Second, Pittsburgh passed ordinances that would prohibit assault weapons and large-capacity magazines if and

only if the state firearm preemption statutes were changed or more narrowly construed through legislation or litigation. *Id.* Finally, the Council passed laws that penalize those whose negligent gun-storage practices lead to a minor harming someone with their firearm and that set up a procedure for family members or law enforcement to request judicial intervention if an individual with a gun is likely to harm themselves or others. Pittsburgh, Pa. Ordinance 2018-1220 (Apr. 2, 2019).

The City Council made findings about the efficacy of these ordinances. It concluded that the use of assault weapons “results in a higher number of fatalities and injuries during mass shootings and other serious crimes, including murders of police officers.” Ordinance 2018-1218. Such devices are particularly dangerous “in a crowded urban jurisdiction.” *Id.* The City determined that even if it could not totally ban these devices, imposing liability “on those who would use [these devices] in public spaces” would still enhance public safety, particularly by “allowing police officers to intercede earlier and deter future tragedies.” *Id.* The City also consulted research compiled by the RAND Corporation showing the efficacy of child-access-prevention laws in reducing unintentional firearm injuries and a meta-analysis showing that reducing child access to firearms reduces youth suicides. Ordinance 2018-1220. Thus, the City concluded that these narrowly crafted ordinances would help save lives.

Despite the City’s extensive efforts to comply with the Firearms Preemption Statutes, the ordinances were challenged in court. As discussed above, *supra.* at 1-2, the trial court and the Commonwealth Court found the ordinances were preempted. *See*

*Firearm Owners Against Crime*, 276 A.3d at 878. Pittsburgh has petitioned this Court to review that case (those petitions are currently being held in abeyance), and vigorously maintains that the enacted ordinances are not preempted. But over the course of the ongoing litigation, the ordinances have not been enforced. The City's residents—including the individual Petitioners in this case—are, once again, less safe as a direct result of the Firearms Preemption Statutes.

Pittsburgh has been deprived of its ability to self-govern and, as a result, is unable to implement life saving measures that are tailored to its particular local needs. It has not been able to implement the ordinances it passed, nor has it been able to consider other ordinances that could save lives.

Pittsburgh's inability to pass local gun ordinances harms its citizens who continue to suffer acutely from the gun violence epidemic. Take, for example, one-year-old De'Avry Thomas, who on May 30, 2022, was sitting in the back of a Jeep with his mother and another passenger. Shelley Bortz, *One-year-old boy shot and killed in Downtown Pittsburgh*, CBS Pittsburgh, (May 30, 2022, 1:20 AM), <https://www.cbsnews.com/pittsburgh/news/deadly-shooting-downtown-pittsburgh-1-year-old-boy-killed/>. According to reports, a man sitting on the passenger side windowsill of another vehicle began firing at the Jeep. *Id.* Shortly after arriving on the scene, medics pronounced De'Avry dead. *Id.* Only six months earlier, just outside of Pittsburgh, a five-year-old was shot and killed by his six-year-old sibling, who gained access to an unsecured firearm in the family home. Jessica Guay & Brianna Smith, *Police:*

*6 Year-Old Shoots, Kills 5 Year-Old Sibling In Penn Hills*, CBS Pittsburgh, (Nov. 23, 2021, 5:25 AM), <https://www.cbsnews.com/pittsburgh/news/child-shoots-another-child-prescott-drive-penn-hills/>. Like the families of these victims, the individual Petitioners in this lawsuit, Delia Chatterfield (who lives in Pittsburgh) and Wynona Harper (who lives just outside of Pittsburgh), have also suffered crushing losses from gun violence.

These individual tragedies are part of a larger tale of gun violence in Pittsburgh. Between January 1, 2010, and December of 2021, there have been 629 homicides with a firearm; 2,413 aggravated assaults with a firearm; and 2,012 other nonfatal shootings in Pittsburgh. Allegheny Cnty., *Overall Violence Trends, City of Pittsburgh, 2010 to July 2022*, (last visited Sep. 28, 2022); Allegheny Cnty., *Homicides in the City of Pittsburgh, 2010 through April 2022*, (last visited Sep. 28, 2022); Allegheny Cnty., *Gun Violence, City of Pittsburgh, 2010 to July 2022*, (last visited Sep. 28, 2022). There were a total of 24,726 shots fired in Pittsburgh in this timeframe. Allegheny Cnty., *Gun Violence, City of Pittsburgh, 2010 to July 2022*.<sup>6</sup>

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<sup>6</sup>These sources are available at the following links:

[https://tableau.alleghenycounty.us/t/PublicSite/views/CJ\\_Overall\\_Violence\\_Trends\\_PG8-22-17\\_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay\\_count=no&%3AshowVizHome=no](https://tableau.alleghenycounty.us/t/PublicSite/views/CJ_Overall_Violence_Trends_PG8-22-17_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay_count=no&%3AshowVizHome=no)

[https://tableau.alleghenycounty.us/t/PublicSite/views/CJ\\_Homicides\\_PG8-22-17\\_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay\\_count=no&%3AshowVizHome=no](https://tableau.alleghenycounty.us/t/PublicSite/views/CJ_Homicides_PG8-22-17_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay_count=no&%3AshowVizHome=no)

[https://tableau.alleghenycounty.us/t/PublicSite/views/CJ\\_GunViolence\\_PG8-22-17\\_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay\\_count=no&%3AshowVizHome=no](https://tableau.alleghenycounty.us/t/PublicSite/views/CJ_GunViolence_PG8-22-17_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay_count=no&%3AshowVizHome=no)

[https://tableau.alleghenycounty.us/t/PublicSite/views/CJ\\_GunViolence\\_PG8-22-17\\_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay\\_count=no&%3AshowVizHome=no](https://tableau.alleghenycounty.us/t/PublicSite/views/CJ_GunViolence_PG8-22-17_v2/Home?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay_count=no&%3AshowVizHome=no)

The gun violence epidemic in Pittsburgh (like Philadelphia) also disproportionately affects Pittsburgh’s Black residents. In 2016, the Allegheny County Department of Human Services explained: “African Americans make up only 27 percent of Pittsburgh’s population, . . . [but] . . . experienced homicide victimization at a rate 19 times greater than the rate for non-blacks.” Allegheny Cnty. Dep’t of Human Servs., *Violence in Allegheny County and Pittsburgh*, 10 (2016). Between 2010 and April of 2022, Black residents made up 83 percent of homicide victims in the City of Pittsburgh. Allegheny Cnty., *Homicides in the City of Pittsburgh*, 2010 through April 2022.

Despite the urgent need to act, the Firearms Preemption Statutes severely restrict the City’s ability to combat gun violence. As explained by the Petitioners, certain laws, such as permit-to-purchase requirements, have been shown to reduce rates of gun violence. But the Firearms Preemption Statutes prevent the City from taking such measures. As a result, Pittsburgh is unable to use all options to protect its residents and is hamstrung in its fight against gun violence.

## **Conclusion**

The City urges this Court to revisit *Ortiz* and either clarify the scope of the Firearms Preemption Statutes or strike the statutes down as unconstitutional under the theories advanced by the Petitioners. Pittsburgh also submits this brief to offer its perspective on the harm that has been caused by the Firearms Preemption Statutes.

Date: September 30, 2022

Respectfully Submitted

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**CERTIFICATE OF COMPLIANCE WITH WORD-COUNT LIMIT**

I certify pursuant to Pa. R. App. P. 531 that this brief contains no more than 5,371 words, including footnotes.

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## **CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

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I certify that on September 30, 2022, I caused a true and correct copy of Pittsburgh's amicus brief to be served upon the following counsel by electronic service by PACFILE:

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