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ALERT FEATURED TOP STORY EDITOR'S PICK

Measure 114: Mid-Willamette Valley law enforcement leaders give their takes

Maddie Pfeifer

Dec 4, 2022



The shooting range at the Corvallis Police Department on Friday, Dec. 2, 2022. Law enforcement agencies in Oregon Measure 114 goes into effect Dec. 8.

Kylie Graham Mid-Valley Media

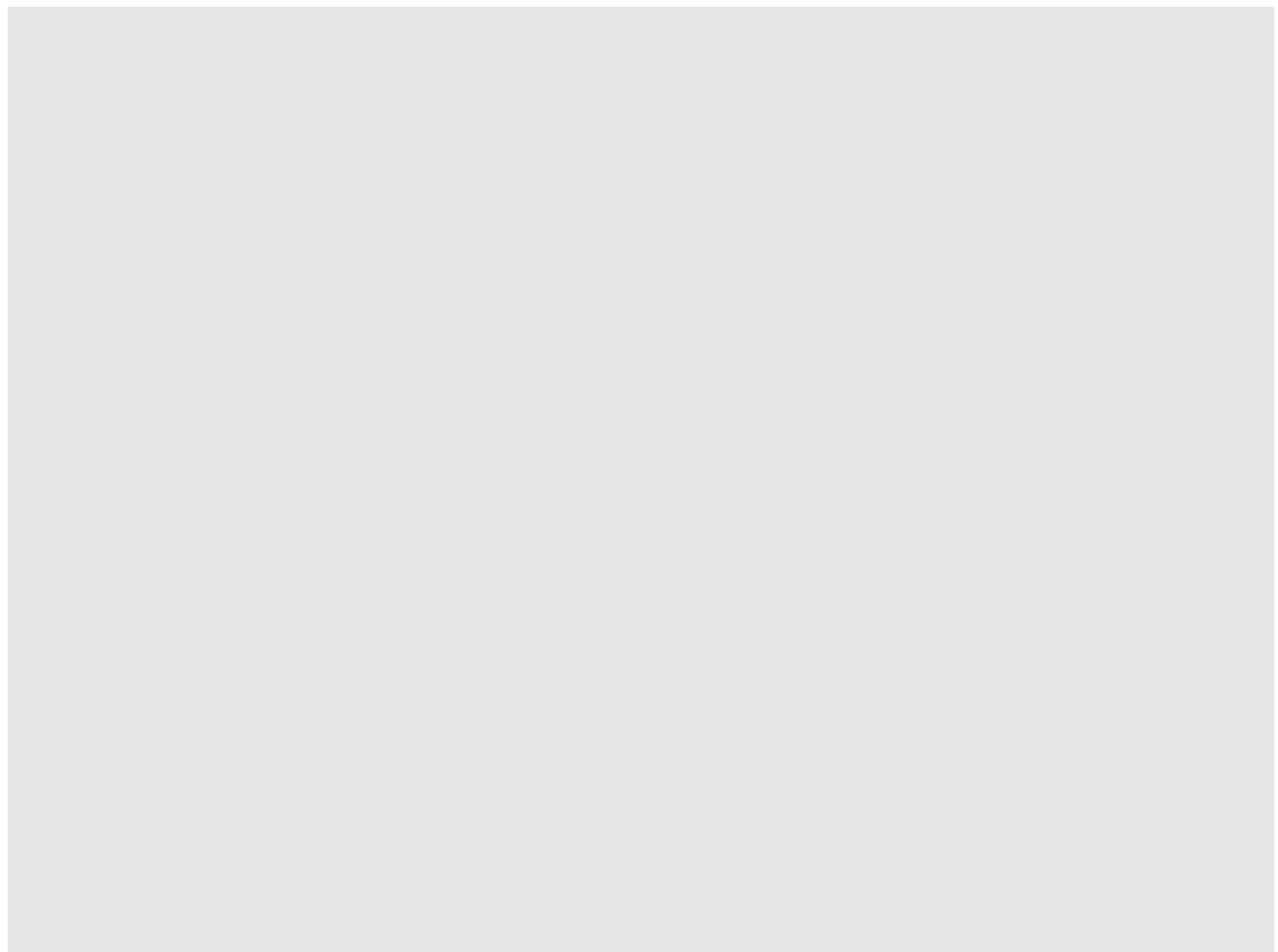
Maddie Pfeifer

On Dec. 8, law enforcement leaders in the mid-Willamette Valley and the rest of Oregon will be faced with a choice: whether to enforce the state's newest gun law.

Oregon voters narrowly passed Measure 114 in the Nov. 8 General Election with 50.7% voting yes and 49.4% voting no, state Secretary of State records show.

The measure requires background checks, safety training and a fee for a local law enforcement-issued permit to acquire firearms. State police must maintain a new permit/firearm database.

The measure will also ban gun magazines capable of holding more than 10 rounds, the aspect with which many law enforcement leaders are taking issue.



The shooting range at the Corvallis Police Department on Friday, Dec. 2, 2022. Law enforcement agencies in Oregon will have to adjust to a new gun law when Measure 114 goes into effect Dec. 8.

Kylie Graham, Mid-Valley Media

Sheriffs speak out

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It didn't take **Linn County Sheriff Michelle Duncan** long to inform residents she did not plan on enforcing the measure's magazine capacity limits. After unofficially **winning the Linn County sheriff election**, she said via an agency Facebook post that the ballot measure was "a terrible law for gun owners, crime victims and public safety."

Other sheriffs who have spoken publicly on Measure 114 include Jefferson County Sheriff Jason Pollock, Union County Sheriff Cody Bowen, Marion County Sheriff Joe Kast and Lincoln County Sheriff Curtis Landers.

Some, like Duncan, have been clear on their intentions of not enforcing magazine capacity limits — or at least not focusing agency resources on that issue.

Others have said they will follow whatever the courts decide — and they anticipate the courts will take issue with the constitutionality of the law.

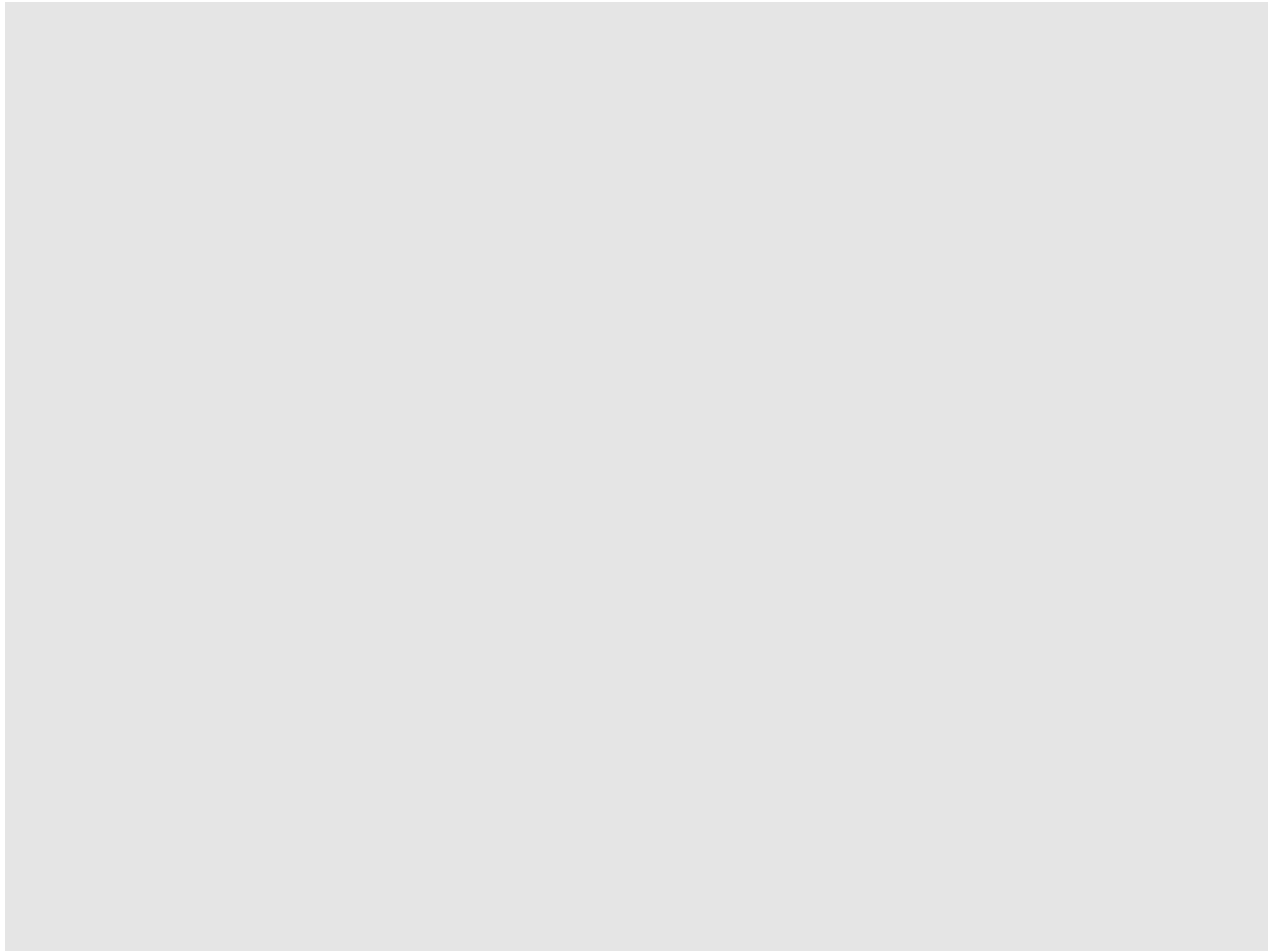
Duncan said it's not her job to interpret the Constitution. However, she is basing her decision to not actively enforce magazine capacity limits on the Supreme Court ordering the U.S. Court of Appeals for the 9th Circuit to revisit a 2021 7-4 ruling that upheld a similar California law banning magazines capable of holding more than 10 rounds.

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That request did not overrule the circuit court ruling and followed a decision in an unrelated New York case. A decision at the 9th Circuit is still pending.

Duncan is holding firm on her opposition to the measure despite it going into effect next week. She said she doesn't believe any office or department will be ready to launch the permitting process by Dec. 8.

Duncan said she may be forced to take patrol deputies off the streets to process permits because there isn't a budget to add new positions to staff. She'll also be looking at utilizing existing volunteers within the agency.



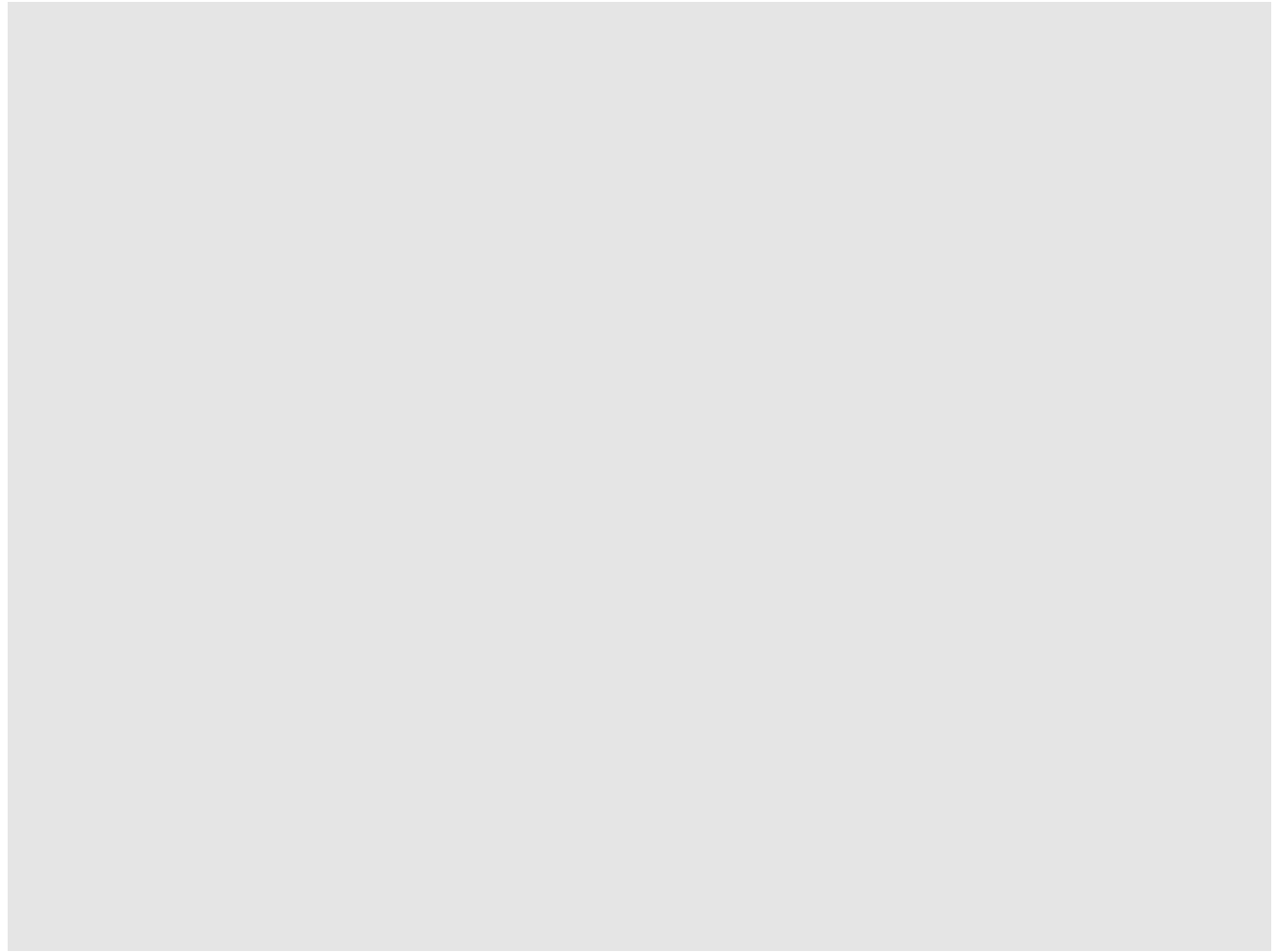
A man pulls a 9mm handgun from a holster Saturday, Nov. 3, 2022, in Cottage Grove. The weapon typically feeds ammunition from a 15-round magazine — this magazine is modified with an off-the-shelf extended base plate and holds 17 rounds. Oregon will prohibit anyone from buying, selling, making or using magazines that hold more than 10 rounds under a ban enacted in Measure 114 that begins Dec. 8. The law permits owners to use higher capacity magazines at firing ranges if they purchased the magazines before the ban.

Alex Powers, Mid-Valley Media

“I want to minimize the impact on the criminal division here,” she said.

Duncan expects the new law to effectively discourage gun sales, which is not ideal for citizens in Linn County who like to exercise their Second Amendment right.

The sheriff said she understands the concerns surrounding mass shootings in the country, but this law isn’t the way to combat that.



Linn County Sheriff Michelle Duncan

Kylie Graham, Mid-Valley Media

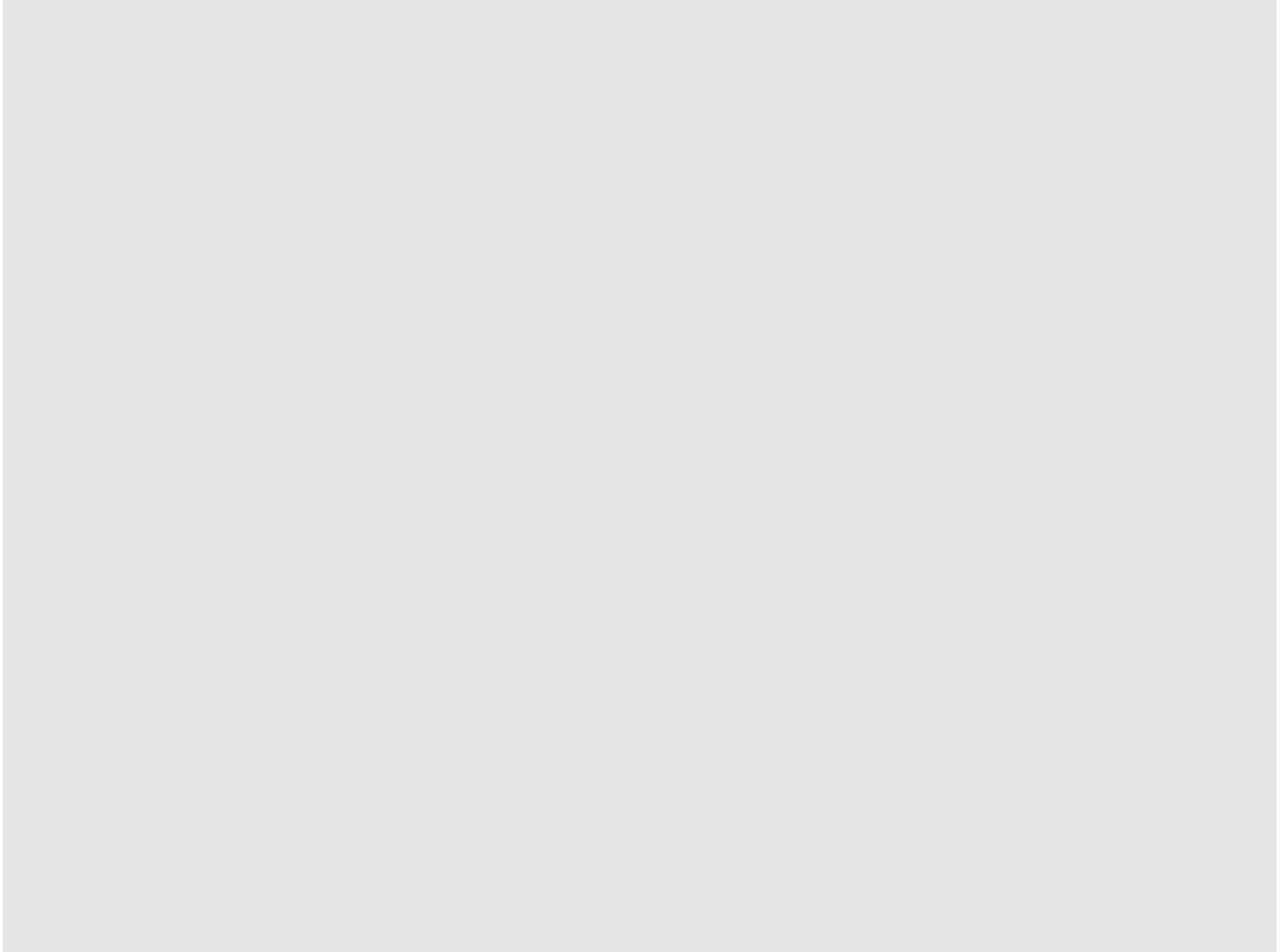
“I share those concerns, and I’m not ignoring that,” Duncan said. “I don’t think anyone is going to disagree that there’s a mental health component there. We need to do more with mental health, and that’s how we’ll address those problems.”

A slippery slope

Willamette University Professor of Law Paul Diller said elected officials like sheriffs have a duty to uphold the Constitution. But they also get some leeway when it comes to enforcing laws.

“Law enforcement officers also have discretion as to which laws they will allocate resources toward,” Diller said. “They’re not legally obligated to arrest everyone for committing every offense on the books.”

With Measure 114, Diller said he could see potential conflicts with sheriffs not maintaining their law enforcement certifications should they outright refuse to enforce a law. It will be up to the state to decide how it engages with law enforcement leaders who don't follow orders.



A man pulls a 30-round magazine from an AR-15 style rifle Saturday, Nov. 3, 2022, in Cottage Grove. Magazines fitting weapons like AR-15, usually with a capacity of 30 rounds of 5.56x45mm ammunition, disappeared from store shelves in the weeks before Oregon prohibits capacity of more than 10 rounds on Dec. 8.

Alex Powers, Mid-Valley Media

“Figuring out the fine line between defiance and discretion will be somewhat complicated for the state,” Diller said.

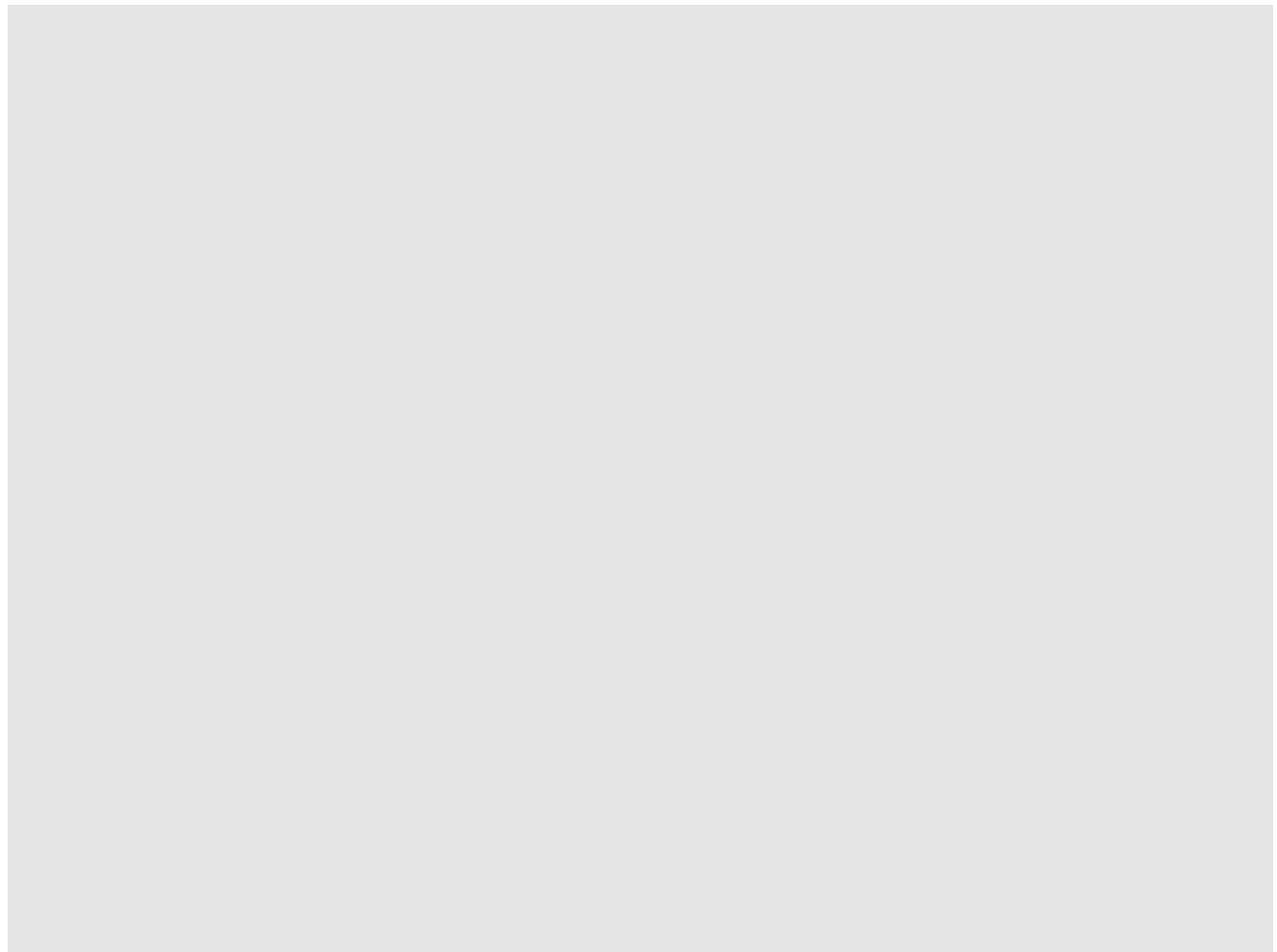
That doesn't mean the state isn't game. In response to questions about Oregon sheriffs choosing not to enforce the measure, Kristina Edmunson, communications director for the Oregon Attorney General, said the state will intervene in some

capacity.

“We will be involved in various ways in implementing the new law, as we always are,” Edmunson said in a Nov. 10 email in response to Duncan’s announcement. “And although this is unusual, there are nearly always ways we can address enforcement concerns constructively. We hope that will be the case here.”

Suing the state

Measure 114 opponents aren’t going down without a fight. The Oregon Firearms Federation, Sherman County Sheriff Brad Lohrey and Keizer gun store owner Adam Johnson filed a federal lawsuit against the soon-to-be law.



5.56x45mm ammunition is visible on a table Saturday, Nov. 3, 2022, in Cottage Grove, after it was stripped from a 30-round box magazine.

Alex Powers, Mid-Valley Media

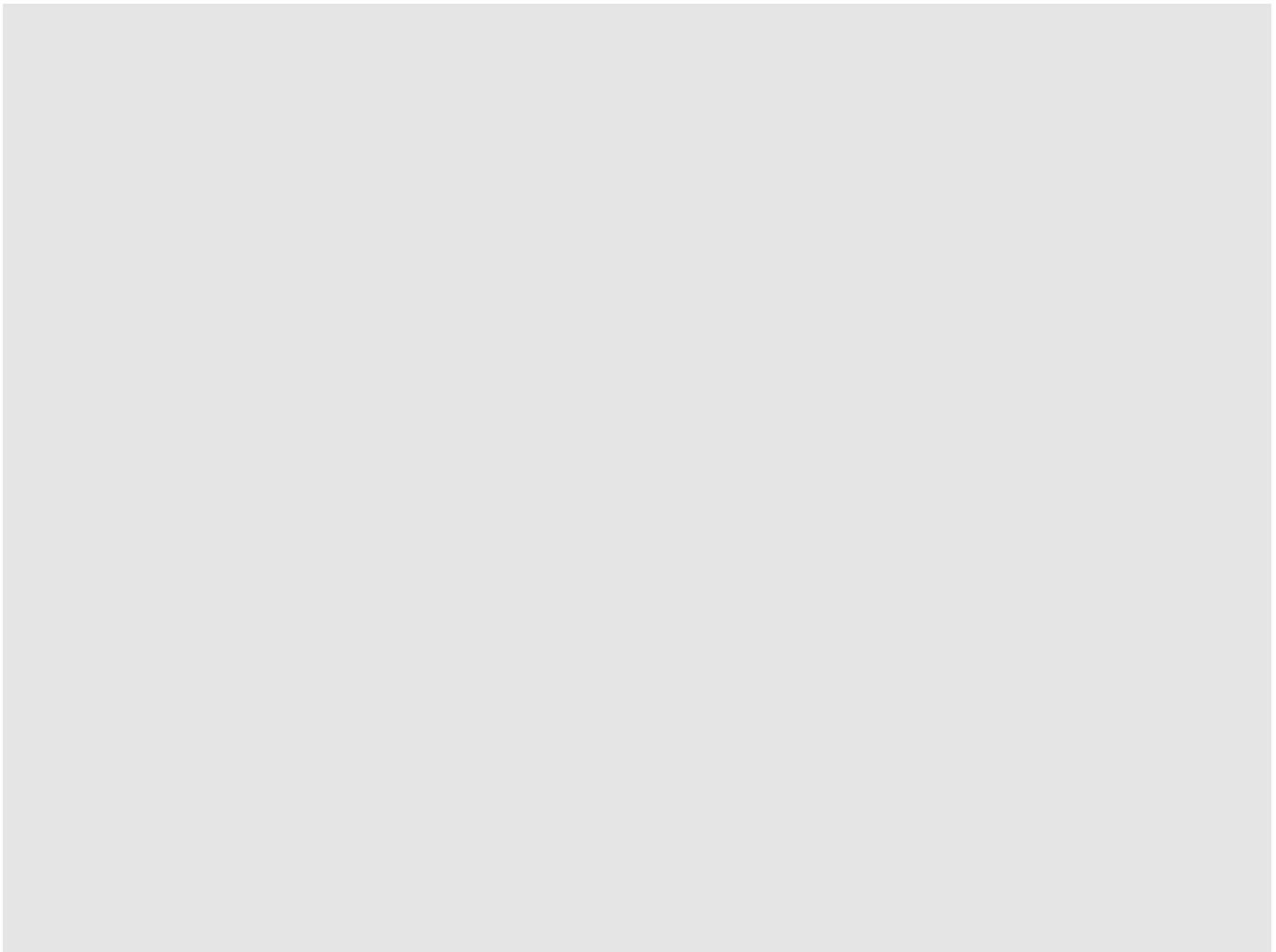
Since the complaint was filed, Union County Sheriff Cody Bowen and Malheur County Sheriff Brian Wolfe joined as plaintiffs.

The lawsuit, filed Nov. 18 with the Pendleton division of the U.S. District Court in Oregon, asks that Measure 114 be ruled unconstitutional at least in some capacity. Court documents show the plaintiffs are asking for a temporary restraining order and a preliminary injunction against the measure to keep it from being enacted.

The defendants in the case are Oregon Gov. Kate Brown and State Attorney General Ellen Rosenblum.

The complaint alleges “114 violates multiple constitutional provisions,” including the Second Amendment’s right to bear arms and the Fourteenth Amendment’s due process clause.

The plaintiffs argue that magazines capable of holding more than 10 rounds are commonplace among gun owners and are beneficial during a potential violent confrontation with an attacker.



A man sights an AR-15 style rifle Saturday, Nov. 3, 2022, in Cottage Grove. The rifle is loaded with a magazine holding 30 rounds of 5.56x45mm ammunition.

Alex Powers, Mid-Valley Media

“Banning magazines over 10 rounds is no more likely to reduce criminal abuse of guns than banning high horsepower engines is likely to reduce criminal abuse of automobiles,” the lawsuit says.

The complaint adds: “To the contrary, the only thing the ban contained in 114 ensures is that a criminal unlawfully carrying a firearm with a magazine over 10 rounds will have a potentially devastating advantage over his law-abiding victim.”

A judge heard arguments from both sides on Friday, Dec. 2 and is expected to decide early this week whether to issue a temporary restraining order preventing the implantation of the measure.

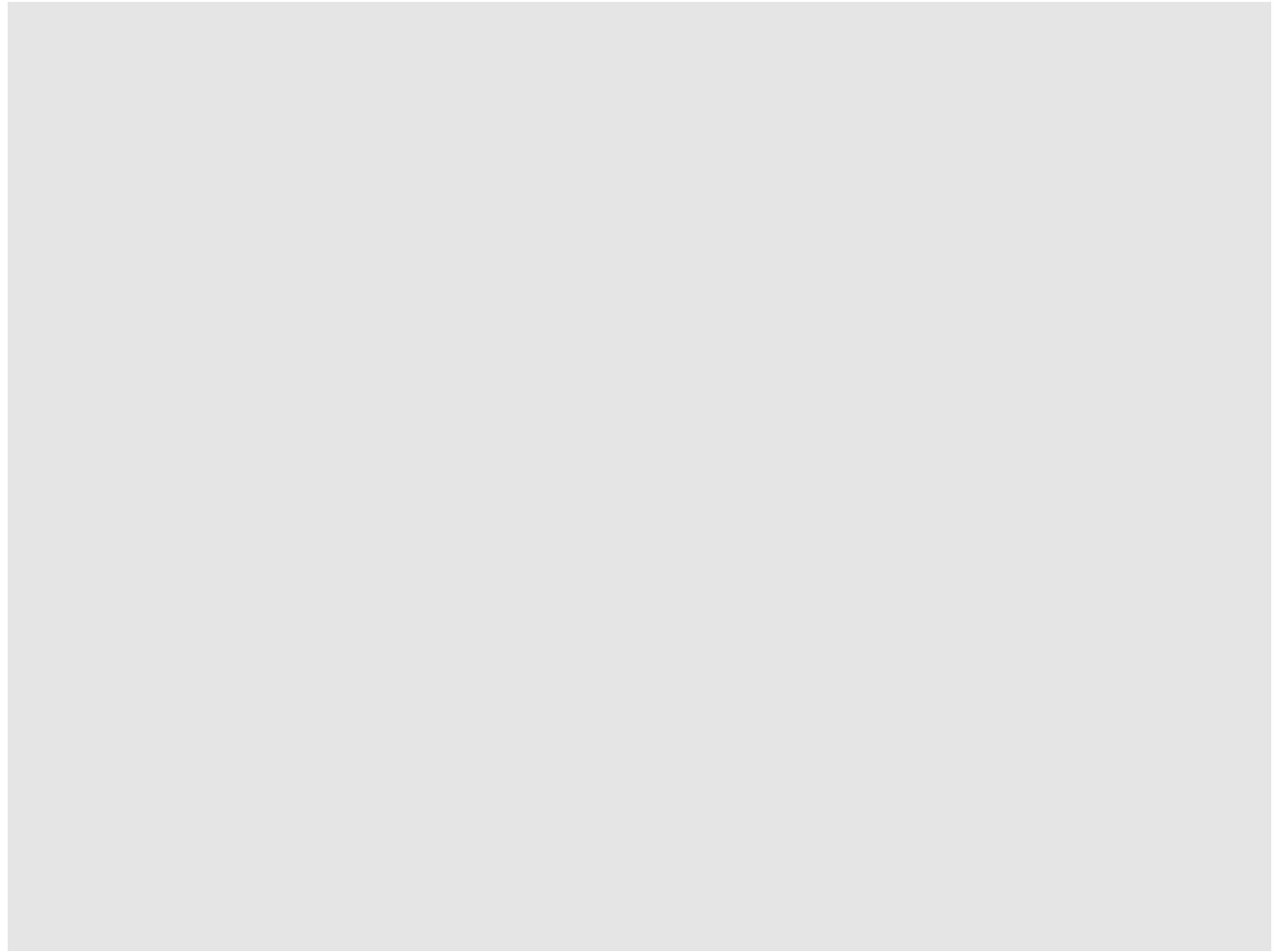
Since the filing of this lawsuit, there have been two additional complaints filed against Rosenblum and Oregon State Police Superintendent Terri Davie. Plaintiffs for these cases include former Oregon State representatives, a sporting goods store in Eugene, the Oregon State Shooting Association, the National Shooting Sports Foundation and firearm dealers.

Benton County

Benton County Sheriff Jef Van Arsdall hasn't made a public statement on Measure 114 like his Linn County counterpart. He believes there isn't much interest from Benton County residents in hearing his thoughts. That tracks, considering voters in Benton County supported Measure 114, 59.8% to 40.2%.

“I guess at this point, my view really isn't important,” Van Arsdall said. “It passed. Now we've got to figure out how we're going to implement it.”

Van Arsdall is starting by making sure his employees are following the law outside of work.



Benton County Sheriff Jefri Van Arsdall

Andy Cripe, Mid-Valley Media

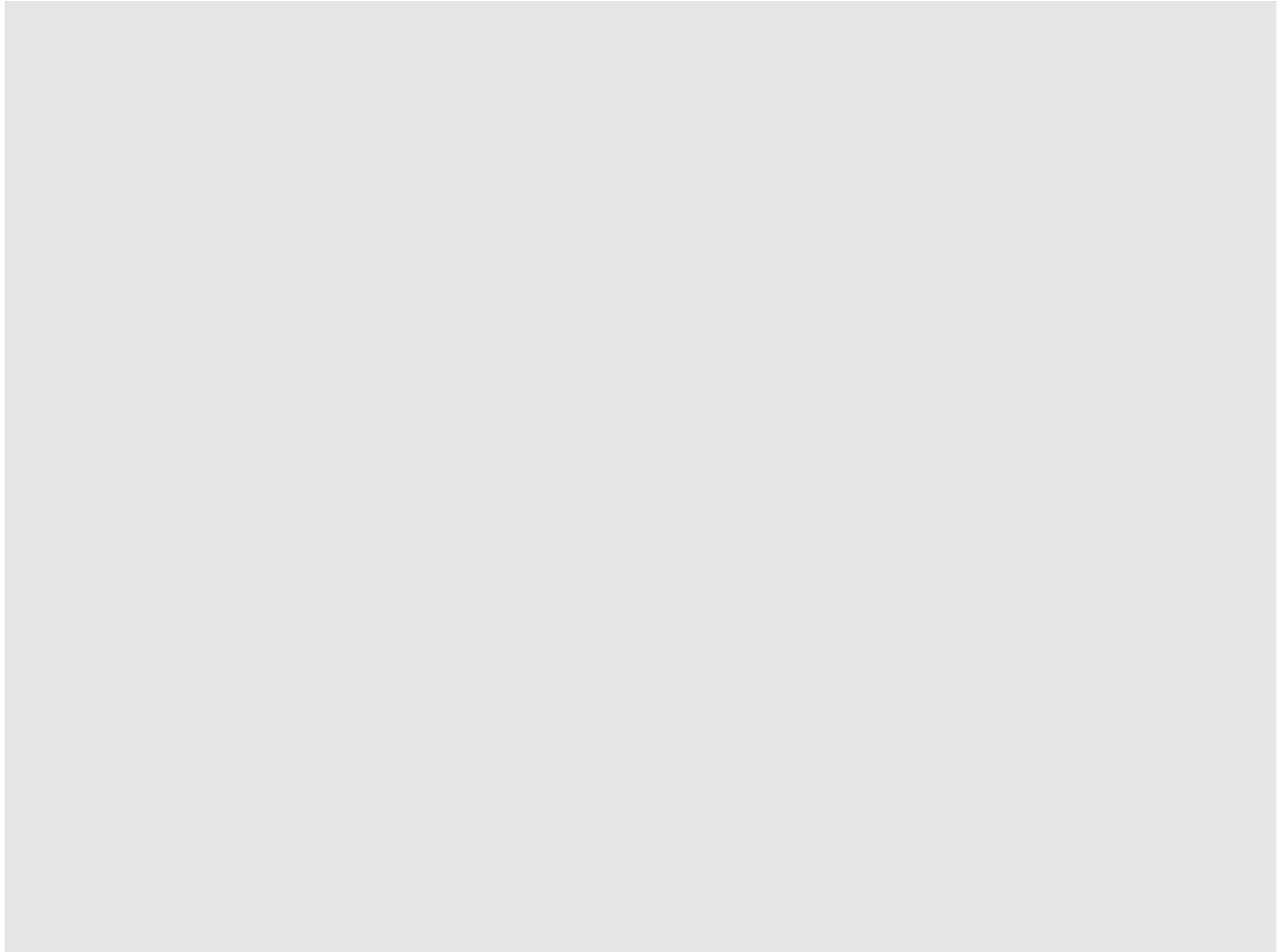
“My main focus is to make sure that our office is in compliance as far as the deputies who carry firearms off duty,” he said. “Once they're no longer on duty, those standard-issue magazines that they got when they were hired ... they can't have those.”

The standard-issue firearm deputies carry on duty contains 15 rounds, according to Van Arsdall.

At this point, Van Arsdall said there's a lot of unknowns in terms of how the permitting process is going to work. Like Duncan, he mentioned the state is not providing funding for the new program.

“I don't know that this was thought out as well as it could have been, and the implementation is going to be rushed,” he said. “It's pretty frustrating from a sheriff's perspective.”

Van Arsdall said he would have to hire new staff to process permits. The quandary of how to pay for more employees is common among Oregon's sheriffs, he said.



Shell casings from 5.56mm ammunition lie around a Magpul 30-round magazine for AR-15 style weapons Saturday, Nov. 3, 2022, in Cottage Grove.

Alex Powers, Mid-Valley Media

Right now, concealed handgun licenses for Benton County residents are processed at the sheriff's office, but those staff members are already swamped, according to Van Arsdall.

“We are three, four months out to get your fingerprints,” he said. “We're way behind on concealed handgun licenses. As soon as this ballot measure passed, those numbers increased.”

In regards to high-capacity magazines, Van Arsdall said he won't be knocking on doors searching for out-of-compliance gun-owners.

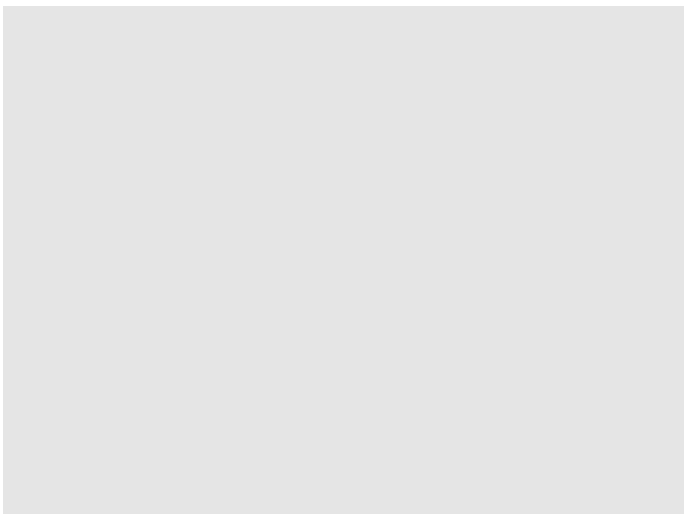
“Until I know what it looks like ... if we come across it, it's case-by-case,” he said. “My deputies use incredible discretion, and so I trust them in this regard.”

Linn County

Unlike their neighbors to the west, Linn County voters overwhelmingly shot down the ballot measure, by a 70-30 split.

Newly-sworn-in Sweet Home Police Department Chief **Jason Ogden** said he wasn't surprised by the county's opposition to the measure. Like other law enforcement leaders, he's just trying to figure out how his limited staff is going to process permits.

“I'm concerned that this process is going to shift resources at the police department away from patrol functions and investigations to now having to figure out how we're going to process permits,” Ogden said.



Sweet Home Police Department Chief Jason Ogden.

Kylie Graham, Mid-Valley Media

Processing permits isn't the only problem Ogden sees with the measure. He said having a limited staff also means it doesn't make much sense to have officers put a lot of their attention into actively searching for high-capacity magazines.

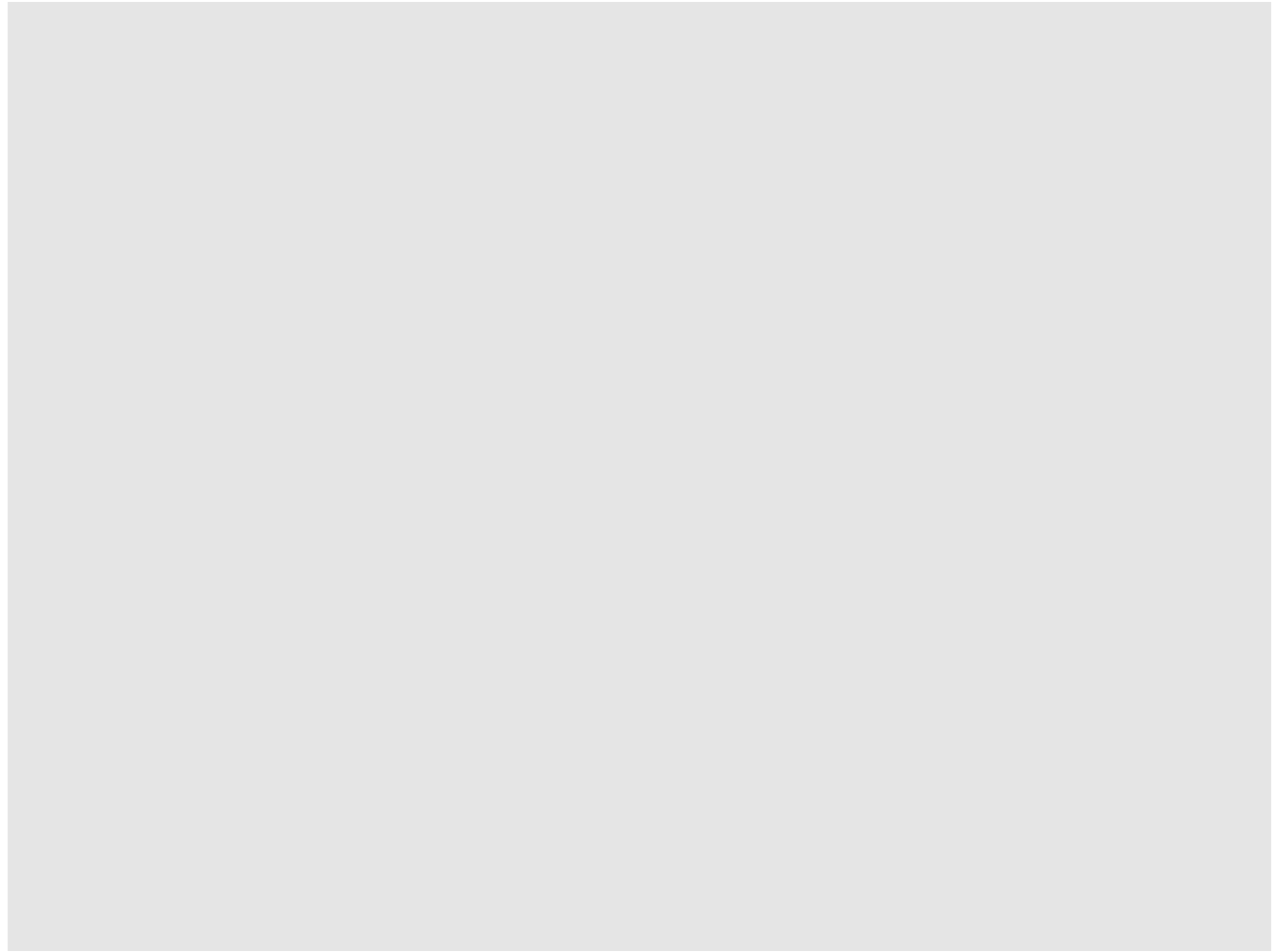
"We've had a shortage of officers, so being short-staffed, I feel like that particular part of the law is not something we're going to focus on," he said.

Albany Police Department Chief Marcia Harnden shared Ogden's sentiments. Harnden said her officers will operate on a case-by-case basis when it comes to high-capacity magazines.

She said she's keeping up with the current litigation surrounding the measure and is worried about taking away out-of-compliance firearms only to have the law potentially be ruled unconstitutional.

"I don't want to incur the liability that comes with seizing something that we may have to give back," Harnden said. "So, in each court case, we would use the utmost discretion and make sure that we consult with our D.A. at the time about the facts and circumstances in that particular case."

Like other law enforcement leaders, Harnden said staffing is an issue when it comes to the permitting process. She said APD will not be ready by Dec. 8 to issue those permits, so she'll be putting out a public notice next week that the agency cannot issue those gun permits.



Albany Police Chief Marcia Harnden.

Mark Ylen Mid-Valley Media

“It’s really going to have some negative impacts on our staffing,” Harnden said. “We might have to be hiring employees in certain areas that we didn’t anticipate when we really need to grow in other areas.”

Harnden said the police agency has never had to do this kind of work and doesn’t have the budget for more staff. She added that because there’s no clear plan yet, she doesn’t know how many employees she would need to hire or how long the permitting process will take.

For now, Harnden is watching what the courts decide and she says she’ll act accordingly. Harnden said she understands the intent of the measure, but it’s not the way to deal with gun violence.

“I absolutely see the need to do something about gun violence in this country. I've been a police officer for 30 years – I've seen the impacts of it,” Harnden said. “I think most anybody in this profession would support some sort of solution, whether it be mental health (services).”

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By Maddie Pfeifer

Reporter
