



# SAFE ACT 7-ROUND LIMIT NON-ENFORCEMENT ZONE

ALL 17 WNY COUNTY DISTRICT ATTORNEYS SAY  
THEY WILL NOT ENFORCE THE CAPACITY LIMIT:

## Q: PLEASE ADVISE WITH ALL DELIBERATE SPEED, WILL YOU IMMEDIATELY BE HALTING ENFORCEMENT OF THE SAFE ACT SEVEN-ROUND MAGAZINE CAPACITY LIMIT IN YOUR COUNTY?

A: "The legal standard in looking at a federal case is useful and/or persuasive. And when I have a federal circuit court decision, which is very useful and very persuasive, I'm going to follow that. So, from this day forward, I have 23 cases that are still pending with this particular penal law violation. I'm going to dismiss all 23 of those, and going forward, I will not prosecute this particular provision anymore." **ERIE COUNTY DISTRICT ATTORNEY JOHN FLYNN (11.9.18)**

A: "I join with my Erie County counterpart not to prosecute this ammunition provision. Any pending charges under this section will be dismissed." **NIAGARA COUNTY DISTRICT ATTORNEY CAROLINE WOJTASZEK (1.3.19)**

A: "I want to be clear that my office has not prosecuted under that section since I have had the role of District Attorney. Since becoming the Acting District Attorney in 2016, I have not prosecuted under the section deemed unconstitutional." **CHAUTAUQUA COUNTY DISTRICT ATTORNEY PATRICK SWANSON (1.4.19)**

A: "I am not sure why all of the declarations regarding this issue. Once it's declared unconstitutional it cannot ethically or legally be enforced. We have sworn to uphold the constitution and that means not enforcing items that are ruled unconstitutional. Therefore there is nothing to cease because the police are not charging anyone under this section and thus we are not prosecuting. If charged by mistake it would have to be dismissed. I guess I don't understand where the ambiguity lies. Hope that helps." **WYOMING COUNTY DISTRICT ATTORNEY DONALD O'GEEN (1.6.19)**

A: "I never have or any other provision against non felons and never will." **ALLEGANY COUNTY DISTRICT ATTORNEY KEITH SLEP (1.6.19)**

A: "I am joining my fellow DA's around upstate NY in interpreting the Federal Court of Appeals decision referred to in your email as dispositive of the issue of unenforceability of the 7-round magazine limitation set forth in the SAFE Act. Given that case law precedent Steuben County will not enforce the 7-round provision of the SAFE Act set forth in the Penal Law and addressed with disfavor by Judge Skrenty's decision." **STEBEN COUNTY DISTRICT ATTORNEY BROOKS BAKER (1.9.19)**

A: "Ontario County has not prosecuted nor arrested a 7 round SAFE Act case that I am aware. I am bound to uphold the Constitution of the State of New York and the Constitution of the United States. Since the statute has been declared Unconstitutional I would absolutely not prosecute a '7 round' case, consistent with the position of the other DA's offices and the Second Circuit Court of Appeals." **ONTARIO COUNTY DISTRICT ATTORNEY JAMES RITTS (1.10.18)**

A: "Thank you for your correspondence, I appreciate your willingness to reach out. As I previously stated, my office has not and will not prosecute any offenses under any unconstitutional law. Thank you." **LIVINGSTON COUNTY DISTRICT ATTORNEY GREGORY MCCAFFREY (1.11.19)**

A: "Monroe County District Attorney Sandra Doorley has publicly stated that she has not, and has no plans to prosecute the seven-round magazine limit in Monroe County. Here at the Monroe County District Attorney's Office, we are not in the habit of prosecuting legal gun owners!" **MONROE COUNTY COMMUNITY RELATIONS COORDINATOR CALLI MAIANETTI (1.11.19)**

A: "I apologize for just getting back to you now with regards to your inquiry. I am tasked with enforcing the law in Yates County and part of that responsibility included keeping abreast of how the Court's interpret and review the laws. It would be unjust for my office to enforce any law that was deemed to be unconstitutional by a Court of binding authority. This provision of the SAFE Act is not different. In light of the Federal Court of Appeals ruling on the seven-round limit as unconstitutional, my office will not, and ethically cannot, enforce the seven-round limit restriction." **YATES COUNTY DISTRICT ATTORNEY TODD CASELLA (1.11.19)**

A: "I would not prosecute it and never have. I am an avid second amendment supporter!"  
**CATTARAUGUS COUNTY DISTRICT ATTORNEY LORI PETTIT RIEMAN (1.14.19)**

A: "I can't say that we will 'be halting enforcement of the SAFE Act seven-round limit in Genesee County' because there hasn't been any such enforcement. No such arrests have been made and so there have not been any such cases for us to prosecute. It is my understanding that there will not be any such arrests in this County in the future but, if there were, we would not prosecute such charges."  
**GENESEE COUNTY DISTRICT ATTORNEY LAWRENCE FRIEDMAN (1.14.19)**

A: "Mr. Porsch is now Judge Porsch and as such has referred your email to me since I am now the Acting District Attorney here in Seneca County. As such, I am ethically bound to uphold the Constitutions and laws of this state and prosecute violations of those laws with equal vigor for the citizens of Seneca County. Likewise I will not enforce laws deemed unconstitutional by our courts. Since the Federal Court of Appeals has found the seven round limit to be unconstitutional, it is unenforceable. There have been no arrests in Seneca County for violations of this portion of the SAFE Act and there will certainly be no prosecutions of law abiding gun owners here in Seneca County. Thank you for your inquiry."  
**ACTING SENECA COUNTY DISTRICT ATTORNEY MARK SINKIEWICZ (1.15.19)**

A: "I am sorry but I missed your email of January 6th, 2019 and was out of my office the entirety of last week. I certainly want to respond to your request for my position on the seven-round limit issue under the so called 'Safe Act.' I want to echo the unanimous position taken by my colleagues in Western New York who represent a plurality of political views that the Federal Court decision on this issue renders the seven round limit restriction unenforceable. There will be no prosecution for a violation of this provision in Orleans County by my Office. It is my sincerest hope that this delayed response in no way inconvenienced anyone. Rest assured and as my track record over the last 28 years establishes I am an avid supporter of the Second Amendment and those who legally possess a weapon. Please advise if you need any further clarification. I have met with Chairman David G. Thom of the SCOPE Chapter here in Orleans County who asked that I address his members on this issue which I expect to do in the very near future. Thanks for your patience." **ORLEANS COUNTY DISTRICT ATTORNEY JOSEPH CARDONE (1.22.19)**

A: "At the outset, I am bound by the law in my role as a prosecutor in New York State. That being said, inasmuch as that section of the SAFE ACT making it illegal for anyone to load more than seven rounds of ammunition into a magazine capable of holding more than 10 rounds was declared unconstitutional, first by Chief US District Judge William Skretny in 2013, and then by the 2nd Circuit of the United States Court of Appeals in 2015, I have no intention of prosecuting anyone in Chemung County for an alleged violation of such section. Hopefully this letter addresses your request for a response in this matter."  
**CHEMUNG COUNTY DISTRICT ATTORNEY WEEDEN WETMORE (2.5.19)**

A: "My job is to uphold the laws of this State and this country. When the laws conflict, I am bound by the provisions of the United States Constitution and their interpretations by federal courts. That being said, with respect to the seven round capacity limit, I will not enforce a provision of New York State Law that has been deemed to be unconstitutional by a federal appeals court. You, and others like you, may carry your otherwise legally possessed ten round clip weapons in and through Schuyler County without fear of prosecution. It goes without saying that this is my position as District Attorney and may be altered by any subsequent District Attorneys for the great county of Schuyler. I hope this answers your question."  
**SCHUYLER COUNTY DISTRICT ATTORNEY JOSEPH FAZZARY (2.8.19)**

A: "To my knowledge Wayne County has not prosecuted nor arrested a 7 round SAFE Act case that I am aware of. I am bound to uphold the Constitution of the State of New York and the Constitution of the United States. If the statute has been declared Unconstitutional I would not prosecute such a case, consistent with the position of the other DA's offices and the Second Circuit Court of Appeals. If there is a case pending on that issue I will have to look at it but to my knowledge we don't have one. We are bound to follow the applicable and current law in all cases." **WAYNE COUNTY DISTRICT ATTORNEY MICHAEL CALARCO (2.14.19)**