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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JAMES MILLER, et al.,

Plaintiffs,

v.

**CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA,
et al.,**

Defendants.

19-cv-1537 BEN-JLB

**DECLARATION OF LUCY P.
ALLEN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF LUCY P. ALLEN

I, Lucy P. Allen, declare:

1. I am a Managing Director of NERA Economic Consulting (“NERA”), a member of NERA’s Securities and Finance Practice and Chair of NERA’s Product Liability and Mass Torts Practice. NERA provides practical economic advice related to highly complex business and legal issues arising from competition, regulation, public policy, strategy, finance, and litigation. NERA was established in 1961 and now employs approximately 500 people in more than 20 offices worldwide.

2. In my over 20 years at NERA, I have been engaged as an economic consultant or expert witness in numerous projects involving economic and statistical analysis. I have been qualified as an expert and testified in court on various economic and statistical issues relating to the flow of guns into the criminal market. I have testified at trials in Federal District Court, before the New York City Council Public Safety Committee, the American Arbitration Association and the Judicial Arbitration Mediation Service, as well as in depositions.

3. I have an A.B. from Stanford University, an M.B.A. from Yale University, and M.A. and M. Phil. degrees in Economics, also from Yale University. Prior to joining NERA, I was an Economist for both President George H. W. Bush’s and President Bill Clinton’s Council of Economic Advisers. My resume with recent publications and testifying experience is included as Appendix A.

4. This declaration reports the results of my analyses with respect to the following issues: (a) the number of rounds of ammunition fired by individuals using a gun in self-defense; and (b) the outcomes when assault weapons (as defined under California law) and large-capacity magazines are used in public mass shootings, including the associated number of casualties.

BACKGROUND

5. California law bans the manufacture, sale and possession of certain firearms, defined as assault weapons (“Assault Weapons”).¹ California law defines Assault Weapons based on either their “make and model” or on certain “features.”² Plaintiffs, in this current case, are challenging the provisions of California law related to firearms that would qualify as Assault Weapons under California Penal Code sections 30515(a).³

6. California Penal Code section 30515(a) defines a semiautomatic, centerfire rifle as an Assault Weapon if it: (1) lacks a fixed magazine and has one or more listed features (*e.g.* a pistol grip); (2) has a fixed magazine with the capacity to accept more than 10 rounds of ammunition; or (3) has an overall length of less than 30 inches.⁴

7. California Penal Code section 30515(a) defines a semiautomatic pistol as an Assault Weapon if it: (1) lacks a fixed magazine and has a threaded barrel (capable of accepting a flash suppressor, a forward handgrip, or a silencer), a second handgrip, a barrel shroud, or the capacity to accept a detachable magazine at some location other than the pistol grip; or (2) has a fixed magazine with the capacity to accept more than 10 rounds of ammunition.⁵

8. California Penal Code section 30515(a) defines a shotgun as an Assault Weapon if it: (1) is semiautomatic and has both an adjustable stock (*i.e.*, folding or telescoping) and a pistol grip, thumbhole stock, or vertical handgrip; (2)

¹ See California Penal Code sections 30600 & 30605. See, also, California Department of Justice: “What is considered an assault weapon under California law?” and “What are AK and AR-15 series weapons?” <https://oag.ca.gov/firearms/regagunfaqs>, accessed October 25, 2018.

² California Penal Code sections 30510 & 30515.

³ First Amended Complaint, ¶31. Magazines capable of accepting more than 10 rounds of ammunition are referred elsewhere in the California Penal Code as “large-capacity magazines.” See California Penal Code section 16740.

⁴ California Penal Code section 30515(a)(1)-(3). See, also, First Amended Complaint, ¶32.

⁵ California Penal Code section 30515(a)(4)-(5). See, also, First Amended Complaint, ¶32.

1 is semiautomatic and has the ability to accept a detachable magazine; or (3) has a
2 revolving cylinder.⁶

3 **OPINIONS**

4 **A. Number of rounds fired by individuals in self-defense**

5 9. Plaintiffs claim the banned “large-capacity magazines” (which are
6 magazines capable of holding more than ten rounds) are commonly used for lawful
7 purposes, including for self-defense in the home.⁷

8 10. In *Duncan v. Becerra*, No. 17-cv-1017-BEN-JLB (S.D. Cal.), I
9 prepared a declaration that was submitted in connection with plaintiffs’ motion for
10 a preliminary injunction (dated June 5, 2017) and an expert report (dated October 6,
11 2017), and I provided deposition testimony as an expert witness (dated January 18,
12 2018). Below are my findings concerning the number of rounds fired in self-
13 defense based on data that was current through May 2017 and relied upon for my
14 declaration and expert report in *Duncan v. Becerra*.

15 11. The number of rounds commonly needed by individuals to defend
16 themselves cannot be practically or ethically determined with controlled scientific
17 experiments and there is no source that systematically tracks or maintains data on
18 the number of rounds fired by individuals in self-defense. Due to these limitations, I
19 have analyzed available data sources to estimate the number of rounds fired by
20 individuals to defend themselves in the home. In particular, I have analyzed data
21 from the NRA Institute for Legislative Action, the largest collection of accounts of
22 citizen self-defense that I am able to find, as well as my own study of news reports
23 on incidents of self-defense with a firearm. In all, I have analyzed almost 1,000
24 incidents of self-defense with a firearm and found that it is rare for a person, when
25 using a firearm in self-defense, to fire more than ten rounds.

27 ⁶ California Penal Code section 30515(a)(6)-(8). See, also, First Amended Complaint, ¶32.

28 ⁷ See, for example, First Amended Complaint, ¶¶91 and 97.

12. The NRA maintains a database of “Armed Citizen” stories describing private citizens who have successfully defended themselves, or others, using a firearm (“NRA Armed Citizen database”). According to the NRA, the “Armed Citizen” stories “highlight accounts of law-abiding gun owners in America using their Second Amendment rights to defend self, home and family.”⁸ Although the methodology used to compile the NRA Armed Citizen database of stories is not explicitly detailed by the NRA, and the database itself is not readily replicable, the NRA Armed Citizen database is a useful data source in this matter for at least three reasons. First, the Armed Citizen database is the largest collection of accounts of citizen self-defense compiled by others that I am able to find. Second, the incidents listed in the Armed Citizen database highlight the very conduct that Plaintiffs claim the California law impedes (*i.e.*, the use of firearms by law-abiding citizens for self-defense).⁹ Third, the Armed Citizen database is compiled by an entity that actively opposes restrictions on magazine capacity and restrictions on the possession and use of firearms in general.¹⁰ In light of the positions taken by the entity compiling the data, I would expect that any selection bias would be in favor of stories that put use of guns in self-defense in the best possible light and might highlight the apparent need of guns and/or multiple rounds in self-defense incidents.

13. In addition to analyzing incidents in the NRA Armed Citizen database (2011 through May 2017), I performed my own systematic, scientific study of news reports on incidents of self-defense with a firearm in the home, covering the same time period.

⁸ NRA Institute for Legislative Action, Armed Citizens, <https://www.nraila.org/gun-laws/armed-citizen/>, accessed May 28, 2017.

⁹ First Amended Complaint, ¶39.

¹⁰ See, for example, NRA Civil Rights Defense Fund website, <http://www.nradefensefund.org/current-litigation.aspx>, accessed October 12, 2018.

14. My team and I performed an analysis of incidents in the NRA Armed Citizen database that occurred between January 2011 and May 2017. For each incident, the city/county, state, venue (whether the incident occurred on the street, in the home, or elsewhere) and the number of shots fired were tabulated.¹¹ The information was gathered for each incident from both the NRA synopsis and, where available, an additional news story. An additional news story was found for over 95% of the incidents in the NRA Armed Citizen database.

15. According to this analysis of incidents in the NRA Armed Citizen database, defenders fired 2.2 shots on average. Out of 736 incidents, there were two incidents (0.3% of all incidents), in which the defender was reported to have fired more than 10 bullets.¹² In 18.2% of incidents, the defender did not fire any shots, and simply threatened the offender with a gun. For incidents occurring in the home (56% of total), defenders fired an average of 2.1 shots, and fired no shots in 16.1% of incidents.¹³ The table below summarizes these findings:

¹¹ The following incidents were excluded from the analysis: (1) duplicate incidents, (2) wild animal attacks, and (3) one incident where the supposed victim later pleaded guilty to covering up a murder. When the exact number of shots fired was not specified, we used the average for the most relevant incidents with known number of shots. For example, if the story stated that “shots were fired” this would indicate that at least two shots were fired and thus we used the average number of shots fired in all incidents in which two or more shots were fired and the number of shots was specified.

¹² Note that the only two incidents with more than 10 bullets fired were added to the NRA Armed Citizen database in 2016 and 2017 after an earlier analysis that I had conducted of the database had been submitted to and cited by the Court in *Stephen V. Kolbe, et al. v. Martin O’Malley, et al.*

¹³ A separate study of incidents in the NRA Armed Citizen database for an earlier period (the five-year period from 1997 through 2001) found similar results. Specifically, this study found that, on average, 2.2 shots were fired by defenders and that in 28% of incidents of armed citizens defending themselves the individuals fired no shots at all. See, Claude Werner, “The Armed Citizen – A Five Year Analysis,” <http://gunssaveslives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables>, accessed January 10, 2014.

**Number of Shots Fired in Self-Defense
Based on NRA Armed Citizen Incidents in the United States
January 2011 - May 2017**

	Shots Fired by Individual in Self-Defense	
	Overall	Incidents in Home
Average Number of Shots Fired	2.2	2.1
Number of Incidents with No Shots Fired	134	66
Percent of Incidents with No Shots Fired	18.2%	16.1%
Number of Incidents with >10 Shots Fired	2	2
Percent of Incidents with >10 Shots Fired	0.3%	0.5%

Notes and Sources:

Data from NRA Armed Citizen database covering 736 incidents (of which 411 were in the home) from January 2011 through May 2017. Excludes duplicate incidents, wild animal attacks and one incident where the supposed victim later pleaded guilty to covering up a murder.

16. We also performed the same analysis of the NRA Armed Citizen database limited to incidents that occurred in the state of California. According to this analysis, defenders in California fired 2.0 shots on average. Out of 47 incidents, there were no incidents in which the defender was reported to have fired more than 10 bullets. In 27.7% of incidents, the defender did not fire any shots, and simply threatened the offender with a gun. For incidents occurring in the home (60% of total), defenders fired an average of 1.9 shots, and fired no shots in 32.1% of incidents. The table below summarizes these findings for California:

**Number of Shots Fired in Self-Defense
Based on NRA Armed Citizen Incidents in California
January 2011 - May 2017**

	Shots Fired by Individual in Self-Defense	
	Overall	Incidents in Home
Average Number of Shots Fired	2.0	1.9
Number of Incidents with No Shots Fired	13	9
Percent of Incidents with No Shots Fired	27.7%	32.1%
Number of Incidents with >10 Shots Fired	0	0
Percent of Incidents with >10 Shots Fired	0.0%	0.0%

Notes and Sources:

Data from NRA Armed Citizen database covering 47 incidents in California (of which 28 were in the home) January 2011 through May 2017. Excludes duplicate incidents and wild animal attacks.

17. In addition to our analysis of incidents in the NRA Armed Citizen database, we performed a systematic, scientific study of news reports on incidents of self-defense with a firearm in the home, focusing on the same types of incidents as the NRA stories and covering the same time period.

18. To identify relevant news stories to include in our analysis, we performed a comprehensive search of published news stories using Factiva, an online news reporting service and archive owned by Dow Jones, Inc. that aggregates news content from nearly 33,000 sources. The search was designed to return stories about the types of incidents that are the focus of the NRA Armed Citizen database and that Plaintiffs claim the California law impedes – in particular, the use of firearms for self-defense in the home.¹⁴ The search identified all stories

¹⁴ NRA Institute for Legislative Action, Armed Citizens, <https://www.nraila.org/gun-laws/armed-citizen/>, accessed May 28, 2017. See, also, First Amended Complaint, ¶39.

1 that contained the following keywords in the headline or lead paragraph: one or
 2 more words from “gun,” “shot,” “shoot,” “fire,” or “arm” (including variations on
 3 these keywords, such as “shooting” or “armed”), plus one or more words from
 4 “broke in,” “break in,” “broken into,” “breaking into,” “burglar,” “intruder,” or
 5 “invader” (including variations on these keywords) and one or more words from
 6 “home,” “apartment,” or “property” (including variations on these keywords).¹⁵ The
 7 search criteria match approximately 90% of the NRA stories on self-defense with a
 8 firearm in the home, and an analysis of the 10% of stories that are not returned by
 9 the search shows that the number of shots fired in these incidents was no different
 10 than in other incidents.¹⁶ The search covered the same period used in our analysis of
 11 incidents in the NRA Armed Citizen database (January 2011 to May 2017). The
 12 region for the Factiva search was set to “United States.” The search returned
 13 approximately 35,000 stories for the period January 2011 to May 2017.¹⁷

14 19. Using a random number generator, a random sample of 200 stories
 15 was selected for each calendar year, yielding 1,400 stories in total.¹⁸ These 1,400
 16 stories were reviewed to identify those stories that were relevant to the analysis, *i.e.*,
 17 incidents of self-defense with a firearm in or near the home. This methodology

18
 19 ¹⁵ The precise search string used was: (gun* or shot* or shoot* or fire* or arm*) and (“broke in”
 20 or “break in” or “broken into” or “breaking into” or burglar* or intrud* or inva*) and (home* or
 21 “apartment” or “property”). An asterisk denotes a wildcard, meaning the search includes words
 which have any letters in place of the asterisk. For example, a search for shoot* would return
 results including “shoots,” “shooter” and “shooting.” The search excluded duplicate stories
 classified as “similar” on Factiva.

22 ¹⁶ The analysis and search would have used criteria to match actual incidents involving Plaintiffs
 23 or California residents, but, based on the First Amended Complaint, Plaintiffs have not identified
 any incidents of the type they claim the California law will impede.

24 ¹⁷ The effect of using alternative keywords was considered. For example, removing the second
 25 category (“broke in” or “break in” or “broken into” or “breaking into” or burglar* or intrud* or
 26 inva*) and including incidents in which the assailant was already inside the home and/or was
 27 known to the victim was considered. *A priori*, there was no reason to believe that a larger number
 of shots would be used in these incidents and based on an analysis of the NRA stories we found
 that the number of shots fired in incidents when defending against someone already in the home
 was not different than those with an intruder.

28 ¹⁸ The random numbers were generated by sampling with replacement.

1 yielded a random selection of 200 news stories describing incidents of self-defense
2 with a firearm in the home out of a population of approximately 4,800 relevant
3 stories. Thus, we found that out of the over 70 million news stories aggregated by
4 Factiva between January 2011 and May 2017, approximately 4,800 news stories
5 were on incidents of self-defense with a firearm in the home. We analyzed a
6 random selection of 200 of these stories.

7 20. For each news story, the city/county, state and number of shots fired
8 were tabulated. When tabulating the number of shots fired, we used the same
9 methodology as we used to analyze stories in the NRA Armed Citizen database.¹⁹
10 We then identified other stories describing the same incident on Factiva based on
11 the date, location and other identifying information, and recorded the number of
12 times that each incident was covered by Factiva news stories.

13 21. According to our study of a random selection from approximately
14 4,800 relevant stories on Factiva describing incidents of self-defense with a firearm
15 in the home, the average number of shots fired per story was 2.61. This is not a
16 measure of the average shots fired *per incident*, however, because the number of
17 stories covering an incident varies, and the variation is not independent of the
18 number of shots fired. We found that there was a statistically significant
19 relationship between the number of shots fired in an incident and the number of
20 news stories covering an incident.²⁰ We found that on average the more shots fired
21 in a defensive gun use incident, the greater the number of stories covering an

22 ¹⁹ When the exact number of shots fired was not specified, we used the average for the most
23 relevant incidents with known number of shots. For example, if the story stated that “shots were
24 fired” this would indicate that at least two shots were fired and thus we used the average number
of shots fired in all incidents in which two or more shots were fired and the number of shots was
specified.

25 ²⁰ Based on a linear regression of the number of news stories as a function of the number of
26 shots fired, the results were statistically significant at the 1% level (more stringent than the 5%
27 level commonly used by academics and accepted by courts. See, for example, Freedman, David
28 A., and David H. Kaye, “Reference Guide on Statistics,” *Reference Manual on Scientific
Evidence* (Washington, D.C.: The National Academies Press, 3rd ed., 2011), pp. 211-302, and
Fisher, Franklin M., “Multiple Regression in Legal Proceedings,” 80 *Columbia Law Review* 702
(1980).)

incident. For example, as shown in the table below, we found that incidents in Factiva news stories with zero shots fired were covered on average by 1.8 news stories, while incidents with six or more shots fired were covered on average by 10.4 different news stories.

**Average Number of News Stories by Number of Shots Fired
In Factiva Stories on Incidents of Self-Defense with a Firearm
January 2011 - May 2017**

Number of Shots Fired By Defender	Average Number of News Stories
0	1.8
1 to 2	2.8
3 to 5	3.8
6 or more	10.4

Notes and Sources:

Based on news stories describing defensive gun use in a random selection of Factiva stories between 2011 and May 2017 using the search string: (gun* or shot* or shoot* or fire* or arm*) and ("broke in" or "break in" or "broken into" or "breaking into" or burglar* or intrud* or inva*) and (home* or "apartment" or "property"), with region set to "United States" and excluding duplicate stories classified as "similar" on Factiva. Methodology for tabulation of shots fired as per footnote 19.

22. After adjusting for this disparity in news coverage, we find that the average number of shots fired per incident covered is 2.34.²¹ Note that this adjustment does not take into account the fact that some defensive gun use incidents

²¹ The adjustment reflects the probability that a news story on a particular incident would be selected at random from the total population of news stories on incidents of self-defense with a firearm in the home. The formula used for the adjustment is:

$$\frac{\sum_{i=1}^n (\text{Shots Fired}_i \times \frac{R_i}{C_i})}{\sum_{i=1}^n (\frac{R_i}{C_i})}$$

where:

n = random selection of news stories on incidents of self-defense with a firearm in the home

R_i = number of search results on Factiva in the calendar year of incident i

C_i = number of news stories covering incident i

1 may not be picked up by *any* news story. Given the observed relationship that there
2 are more news stories when there are more shots fired, one would expect that the
3 incidents that are not written about would on average have fewer shots than those
4 with news stories. Therefore, the expectation is that these results, even after the
5 adjustment, are biased upward (*i.e.*, estimating too high an average number of shots
6 and underestimating the percent of incidents in which no shots were fired).

7 23. As shown in the table below, according to the study of Factiva news
8 stories, in 11.6% of incidents the defender did not fire any shots, and simply
9 threatened the offender with a gun. In 97.3% of incidents the defender fired 5 or
10 fewer shots. There were no incidents where the defender was reported to have fired
11 more than 10 bullets.

**Number of Shots Fired in Self-Defense in the Home
Based on Random Selection of News Stories in Factiva
January 2011 - May 2017**

Estimated population of news reports in Factiva 4,841
on self-defense with a firearm in the home

Random selection of news reports 200

Average Number of Shots Fired 2.34

Median Number of Shots Fired 2.03

Number of Incidents with No Shots Fired 23

Percent of Incidents with No Shots Fired 11.6%

Number of Incidents with ≤ 5 Shots Fired 195

Percent of Incidents with ≤ 5 Shots Fired 97.3%

Number of Incidents with > 10 Shots Fired 0

Percent of Incidents with > 10 Shots Fired 0.0%

Notes and Sources:

Based on news stories describing defensive gun use in a random selection of Factiva stories between 2011 and May 2017 using the search string: (gun* or shot* or shoot* or fire* or arm*) and ("broke in" or "break in" or "broken into" or "breaking into" or burglar* or intrud* or inva*) and (home* or "apartment" or "property"), with region set to "United States" and excluding duplicate stories classified as "similar" on Factiva. Methodology for tabulation of shots fired as per footnote 19. Number of incidents probability-weighted as per footnote 21.

24. In sum, an analysis of incidents in the NRA Armed Citizen database, as well as our own study of a random sample from approximately 4,800 news stories describing incidents of self-defense with a firearm, indicates that it is rare for a person, when using a firearm in self-defense, to fire more than ten rounds.

B. Public Mass Shootings

25. We analyzed the use of Assault Weapons and large-capacity magazines in public mass shootings using four sources for identifying public mass

1 shootings: Mother Jones,²² the Citizens Crime Commission of New York City,²³ the
 2 Washington Post²⁴ and the Violence Project.^{25, 26} The analysis focused on public
 3 mass shootings because it is my understanding that the state of California is
 4 concerned about public mass shootings and enacted the challenged laws, in part, to
 5 address the problem of public mass shootings.

6 26. The type of incident considered a mass shooting is generally consistent
 7 across the four sources. In particular, all four sources consider an event a mass
 8 shooting if four or more people were killed in a public place in one incident, and
 9 exclude incidents involving other criminal activity such as a robbery.²⁷

10 ²² “US Mass Shootings, 1982-2018: Data From Mother Jones’ Investigation,” *Mother Jones*,
 11 updated December 11, 2019, [http://www.motherjones.com/politics/2012/12/mass-shootings-](http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data)
 12 [mother-jones-full-data](http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data).

13 ²³ “Mayhem Multiplied: Mass Shooters and Assault Weapons,” *Citizens Crime Commission of*
 14 *New York City*, February 2018 update. Additional details on the mass shootings were obtained
 15 from an earlier source by the Citizens Crime Commission. “Mass Shooting Incidents in America
 16 (1984-2012),” *Citizens Crime Commission of New York City*,
 17 <http://www.nycrimecommission.org/mass-shooting-incidents-america.php>, accessed June 1,
 18 2017.

19 ²⁴ “The terrible numbers that grow with each mass shooting,” *The Washington Post*, updated
 20 December 18, 2019, [https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-](https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/)
 21 [america/](https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/).

22 ²⁵ “Mass Shooter Database,” *The Violence Project*, [https://www.theviolenceproject.org/mass-](https://www.theviolenceproject.org/mass-shooter-database/)
 23 [shooter-database/](https://www.theviolenceproject.org/mass-shooter-database/), accessed January 17, 2020.

24 ²⁶ When I began research in 2013 on mass shootings in response to a challenge to New York state
 25 law, I found Mother Jones and Citizens Crime Commission to maintain the most comprehensive
 26 lists of relevant mass shootings. More recently, two additional sources, the Washington Post and
 27 The Violence Project, have compiled lists of public mass shootings. The Violence Project began
 28 work on its mass shootings database in September 2017 and its database first went online in
 November 2019, while the Washington Post first published its mass shootings database in
 February 14, 2018. There is substantial overlap between the mass shootings in all four sources.
 For example, the Mother Jones data contains 93% of the mass shootings in the Citizens Crime
 Commission data for the years covered by both data sources, 1984 to 2016, while the Washington
 Post contains 94% of the mass shootings in The Violence Project data for the years covered by
 both data sources, 1966 to 2019.

²⁷ Citizen Crime Commission describes a mass shooting as “four or more victims killed” in “a
 public place” that were “unrelated to another crime (e.g., robbery, domestic violence).” Citizen
 Crime notes that its sources include “news reports and lists created by government entities and
 advocacy groups.” “Mayhem Multiplied: Mass Shooters and Assault Weapons,” *Citizens Crime*
Commission of New York City, February 2018 update.

Mother Jones describes a mass shooting as “indiscriminate rampages in public places resulting in
 four or more victims killed by the attacker,” excluding “shootings stemming from more
 conventionally motivated crimes such as armed robbery or gang violence.” Although in January

27. Each of the four sources contains data on mass shootings covering different time periods. The Mother Jones data covers 98 mass shootings from 1982 to December 11, 2019,²⁸ the Citizens Crime Commission data covers 80 mass shootings from 1984 to February 2018,²⁹ the Washington Post data covers 172 mass shootings from 1966 to December 18, 2019,³⁰ and The Violence Project data covers 171 mass shootings from 1966 to 2019.³¹

2013 Mother Jones changed its definition of mass shooting to include instances when three or more people were killed, for this declaration we only analyzed mass shootings where four or more were killed to be consistent with the definition of the other three sources. “A Guide to Mass Shootings in America,” *Mother Jones*, updated December 11, 2019, <http://www.motherjones.com/politics/2012/07/mass-shootings-map>. See also, “What Exactly is a Mass Shooting,” *Mother Jones*, August 24, 2012, <http://www.motherjones.com/mojo/2012/08/what-is-a-mass-shooting>.

The Washington Post source describes a mass shooting as “four or more people [] killed by a lone shooter (two shooters in a few cases),” excluding “shootings tied to robberies that went awry” and “domestic shootings that took place exclusively in private homes.” The Washington Post notes that its sources include “Grant Duwe, author of ‘Mass Murder in the United States: A History,’ Mother Jones and Washington Post research,” as well as “Violence Policy Center, Gun Violence Archive; FBI 2014 Study of Active Shooter Incidents; published reports.” “The terrible numbers that grow with each mass shooting,” *The Washington Post*, updated December 18, 2019, <https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/>.

The Violence Project indicates that it uses the Congressional Research Service definition of a mass shooting: “a multiple homicide incident in which four or more victims are murdered with firearms—not including the offender(s)—within one event, and at least some of the murders occurred in a public location or locations in close geographical proximity (e.g., a workplace, school, restaurant, or other public settings), and the murders are not attributable to any other underlying criminal activity or commonplace circumstance (armed robbery, criminal competition, insurance fraud, argument, or romantic triangle).” The Violence Project notes that its sources include “Primary Sources: Written journals / manifestos / suicide notes etc., Social media and blog posts, Audio and video recordings, Interview transcripts, Personal correspondence with perpetrators” as well as “Secondary Sources (all publicly available): Media (television, newspapers, magazines), Documentary films, Biographies, Monographs, Peer-reviewed journal articles, Court transcripts, Law Enforcement records, Medical records, School records, Autopsy reports.” “Mass Shooter Database,” *The Violence Project*, <https://www.theviolenceproject.org/methodology/>, accessed January 17, 2020.

²⁸ “A Guide to Mass Shootings in America,” *Mother Jones*, updated December 11, 2019, <http://www.motherjones.com/politics/2012/07/mass-shootings-map>. Excludes mass shootings where only three people were killed. Note this analysis of the Mother Jones data may not match other analyses because Mother Jones periodically updates its historical data.

²⁹ “Mayhem Multiplied: Mass Shooters and Assault Weapons,” *Citizens Crime Commission of New York City*, February 2018 update.

³⁰ “The terrible numbers that grow with each mass shooting,” *The Washington Post*, updated December 18, 2019. <https://www.washingtonpost.com/graphics/2018/national/mass-shootings-in-america/>.

³¹ “Mass Shooter Database,” *The Violence Project* <https://www.theviolenceproject.org/mass->

28. Note that the two more recently compiled sources of mass shootings, the Washington Post and The Violence Project, include additional mass shootings that were not covered by either Mother Jones or Citizens Crime Commission. In general, we found that these additional mass shootings were less covered by the media and involved fewer fatalities and/or injuries than the ones previously identified by Mother Jones or Citizens Crime Commission. For example, we found that the median number of news stories for a mass shooting included in Mother Jones and/or Citizen Crime Commission was 317, while the median for the additional mass shootings identified in the Washington Post and/or The Violence Project was 28.³² In addition, we found an average of 21 fatalities or injuries for a mass shooting included in Mother Jones and/or Citizen Crime Commission, while only 6 fatalities or injuries for the additional mass shootings identified in the Washington Post and/or The Violence Project.

29. We combined the data from the four sources for the period 1982 through 2019, and searched news stories on each mass shooting to obtain additional details on the types of weapons used as well as data on shots fired where available. We compared the details on the weapons used in each shooting to the list of prohibited firearms and features specified in California law to identify, based on this publicly available information, which mass shootings involved the use of Assault Weapons. In addition, we identified, based on this publicly available information, which mass shootings involved the use of large-capacity magazines. See attached Appendix B for a summary of the combined data, and Appendix C for a summary of the weapons used in each public mass shooting based on Mother Jones, Citizens Crime Commission, the Washington Post and news reports.

[shooter-database/](#), accessed January 17, 2020.

³² The search was conducted over all published news stories on Factiva. The search was based on the shooter's name and the location of the incident over the period from one week prior to three months following each mass shooting.

1 **1. Use of Assault Weapons in public mass shootings**

2 30. Based on the data, we found that Assault Weapons are often used in
3 public mass shootings. Whether an Assault Weapon was used in a mass shooting
4 can be determined in 147 out of the 161 incidents (91%) considered in this analysis.
5 Out of these 147 mass shootings, 32 (or 22%) involved Assault Weapons. Even
6 assuming the mass shootings where it is not known whether an Assault Weapon
7 was used *all* did not involve an Assault Weapon, 32 out of 161 mass shootings, or
8 20%, involved Assault Weapons.

9 31. Based on our analysis, casualties were higher in the mass shootings that
10 involved Assault Weapons than in other mass shootings. In particular, we found an
11 average number of fatalities or injuries of 38 per mass shooting with an Assault
12 Weapon versus 10 for those without. Focusing on just fatalities, we found an
13 average number of fatalities of 12 per mass shooting with an Assault Weapon
14 versus 6 for those without. (See table below.)

15 **2. Use of large-capacity magazines in public mass shootings**

16 32. Based on the data, we found that large-capacity magazines (those with
17 a capacity to hold more than 10 rounds of ammunition) are often used in public
18 mass shootings. Magazine capacity is known in 105 out of the 161 mass shootings
19 (or 65%) considered in this analysis. Out of the 105 mass shootings with known
20 magazine capacity, 63 (or 60%) involved large-capacity magazines. Even assuming
21 the mass shootings with unknown magazine capacity *all* did not involve large-
22 capacity magazines, 63 out of 161 mass shootings or 39% of mass shootings
23 involved large capacity magazines. (See table below.)

24 33. Based on our analysis of the public mass shootings data, casualties were
25 higher in the mass shootings that involved weapons with large-capacity magazines
26 than in other mass shootings. In particular, we found an average number of fatalities
27 or injuries of 27 per mass shooting with a large-capacity magazine versus 9 for
28 those without. Focusing on just fatalities, we found an average number of fatalities

of 10 per mass shooting with a large-capacity magazine versus 6 for those without. (See table below.)

34. In addition, we found that casualties were higher in the mass shootings that involved both Assault Weapons *and* large-capacity magazines. In particular, we found an average number of fatalities or injuries of 43 per mass shooting with both an Assault Weapon and a large-capacity magazine versus and 8 for those without either. Focusing on just fatalities, we found an average number of fatalities of 13 per mass shooting with both an Assault Weapon and a large-capacity magazine versus 6 for those without either. (See table below.)

Numbers of Fatalities and Injuries in Public Mass Shootings

Weapon Used	# of Incidents	Average # of		
		Fatalities	Injuries	Total
Assault Weapon	32	12	26	38
No Assault Weapon	115	6	4	10
Unknown	14	6	1	7
Large-Cap. Mag.	63	10	17	27
No Large-Cap. Mag.	42	6	3	9
Unknown	56	5	3	7
Assault Weapon & Large-Cap. Mag.	27	13	30	43
Large-Cap. Mag. only	34	8	7	15
No Assault Weapon or Large-Cap. Mag.	41	6	3	8
Unknown	59	5	3	8

Notes and Sources:

Casualty figures exclude the shooter. LCM classification and casualties based on review of stories from Factiva/Google searches.

35. Our results are consistent with those of other studies that have analyzed mass shootings. Note that although the other studies are based on alternate sets of mass shootings, including covering different years and defining mass

shootings somewhat differently, the results are similar in finding that fatalities and injuries are larger in mass shootings in which large capacity magazines and/or assault weapons are involved. A 2019 academic article published in the *American Journal of Public Health* by Klarevas, Conner and Hemenway found that “[a]ttacks involving LCMs resulted in a 62% higher mean average death toll.”³³ This study found an average number of fatalities of 11.8 per mass shooting with a large-capacity magazine versus 7.3 for those without. The results in this study were based on 69 mass shootings between 1990 and 2017.³⁴ An analysis of the mass shootings detailed in a 2016 article by Gary Kleck yielded similar results (21 average fatalities or injuries in mass shootings involving large-capacity magazines versus 8 for those without).³⁵ The Kleck study covered 88 mass shooting incidents between 1994 and 2013.³⁶ In a 2018 study, Koper et al. found that mass shootings involving assault weapons and large-capacity magazines resulted in an average of 13.7 victims versus 5.2 for other cases.³⁷ The Koper et al. study covered 145 mass shootings between 2009 and 2015.³⁸

3. Number of rounds fired in public mass shootings with Assault Weapons or large-capacity magazines

36. The data on public mass shootings indicates that it is common for offenders to fire more than ten rounds when using an Assault Weapon. Of the 32

³³ Louis Klarevas PhD, Andrew Conner BS, and David Hemenway PhD, “The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990–2017,” *American Journal of Public Health* (2019).

³⁴ The Klarevas, Conner and Hemenway study defines mass shootings as “intentional crimes of gun violence with 6 or more victims shot to death, not including the perpetrators.”

³⁵ Kleck, Gary, “Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The Plausibility of Linkages,” 17 *Justice Research and Policy* 28 (2016).

³⁶ The Kleck study defines a mass shooting as “one in which more than six people were shot, either fatally or nonfatally, in a single incident.”

³⁷ Koper et al., “Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: an Updated Examination of Local and National Sources,” *Journal of Urban Health* (2018)

³⁸ The Koper et al. study defined mass shooting as “incidents in which four or more people were murdered with a firearm, not including the death of the shooter if applicable and irrespective of the number of additional victims shot but not killed.”

1 mass shootings that involved an Assault Weapon, there are 22 in which the number
2 of shots fired is known. Shooters fired more than ten rounds in *all* 22 incidents, and
3 the average number of shots fired was 152.

4 37. In addition, the data indicates that it is common for offenders to fire
5 more than ten rounds when using a gun with a large-capacity magazine in mass
6 shootings. Of the 63 mass shootings that involved a large-capacity magazine, there
7 are 43 in which the number of shots fired is known. Shooters fired more than ten
8 rounds in 40 of the 43 incidents, and the average number of shots fired was 103.

9 **4. Percent of mass shooters' guns legally obtained**

10 38. The data on public mass shootings indicates that the majority of guns
11 used in these mass shootings were obtained legally.³⁹ Of the 161 mass shootings,
12 there are 100 where it can be determined whether the gun was obtained legally.
13 According to the data, shooters in 77% of mass shootings obtained their guns
14 legally (77 of the 100 mass shootings) and 79% of the guns used in these 100 mass
15 shootings were obtained legally (184 of the 234 guns). (Note that even if one
16 assumes that *all* of the mass shootings where it is not known were assumed to be
17 illegally obtained, then one would find 48% of the mass shootings and 61% of the
18 guns were obtained legally.)

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27 ³⁹ The determination of whether guns were obtained legally is based on Mother Jones and
28 Washington Post reporting.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on January 23, 2020 at New York, New York.

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6 Lucy P. Allen
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Appendix A

MANAGING DIRECTOR

Education

YALE UNIVERSITY

M.Phil., Economics, 1990

M.A., Economics, 1989

M.B.A., 1986

STANFORD UNIVERSITY

A.B., Human Biology, 1981

Professional Experience

- | | |
|------------------------|--|
| 1994-Present | <p>National Economic Research Associates, Inc.
<u>Managing Director</u>. Responsible for economic analysis in the areas of securities, finance and environmental and tort economics.
<u>Senior Vice President (2003-2016)</u>.
<u>Vice President (1999-2003)</u>.
<u>Senior Consultant (1994-1999)</u>.</p> |
| 1992-1993 | <p>Council of Economic Advisers, Executive Office of the President
<u>Staff Economist</u>. Provided economic analysis on regulatory and health care issues to Council Members and interagency groups. Shared responsibility for regulation and health care chapters of the <i>Economic Report of the President, 1993</i>. Working Group member of the President's National Health Care Reform Task Force.</p> |
| 1986-1988
1983-1984 | <p>Ayers, Whitmore & Company (General Management Consultants)
<u>Senior Associate</u>. Formulated marketing, organization, and overall business strategies including:
Plan to improve profitability of chemical process equipment manufacturer.
Merger analysis and integration plan of two equipment manufacturers.
Evaluation of Korean competition to a U.S. manufacturer.
Diagnostic survey for auto parts manufacturer on growth obstacles.
Marketing plan to increase international market share for major accounting firm.</p> |

Summer 1985 **WNET/Channel Thirteen, Strategic Planning Department**
Associate. Assisted in development of company's first long-term strategic plan. Analyzed relationship between programming and viewer support.

1981-1983 **Arthur Andersen & Company**
Consultant. Designed, programmed and installed management information systems. Participated in redesign/conversion of New York State's accounting system. Developed municipal bond fund management system, successfully marketed to brokers. Participated in President's Private Sector Survey on Cost Control (Grace Commission). Designed customized tracking and accounting system for shipping company.

Teaching

1989- 1992 **Teaching Fellow, Yale University**
Honors Econometrics
Intermediate Microeconomics
Competitive Strategies
Probability and Game Theory
Marketing Strategy
Economic Analysis

Publications

"Snapshot of Recent Trends in Asbestos Litigation: 2019 Update," (co-author), NERA Report, 2019.

"Snapshot of Recent Trends in Asbestos Litigation: 2018 Update," (co-author), NERA Report, 2018.

"Trends and the Economic Effect of Asbestos Bans and Decline in Asbestos Consumption and Production Worldwide," (co-author), *International Journal of Environmental Research and Public Health*, 15(3), 531, 2018.

"Snapshot of Recent Trends in Asbestos Litigation: 2017 Update," (co-author), NERA Report, 2017.

"Asbestos: Economic Assessment of Bans and Declining Production and Consumption," World Health Organization, 2017.

"Snapshot of Recent Trends in Asbestos Litigation: 2016 Update," (co-author), NERA Report, 2016.

"Snapshot of Recent Trends in Asbestos Litigation: 2015 Update," (co-author), NERA Report, 2015.

“Snapshot of Recent Trends in Asbestos Litigation: 2014 Update,” (co-author), NERA Report, 2014.

“Snapshot of Recent Trends in Asbestos Litigation: 2013 Update,” (co-author), NERA Report, 2013.

“Asbestos Payments per Resolved Claim Increased 75% in the Past Year – Is This Increase as Dramatic as it Sounds? Snapshot of Recent Trends in Asbestos Litigation: 2012 Update,” (co-author), NERA Report, 2012.

“Snapshot of Recent Trends in Asbestos Litigation: 2011 Update,” (co-author), NERA White Paper, 2011.

“Snapshot of Recent Trends in Asbestos Litigation: 2010 Update,” (co-author), NERA White Paper, 2010.

“Settlement Trends and Tactics” presented at Securities Litigation During the Financial Crisis: Current Development & Strategies, hosted by the New York City Bar, New York, New York, 2009.

“Snapshot of Recent Trends in Asbestos Litigation,” (co-author), NERA White Paper, 2009.

“China Product Recalls: What’s at Stake and What’s Next,” (co-author), NERA Working Paper, 2008.

“Forecasting Product Liability by Understanding the Driving Forces,” (co-author), The International Comparative Legal Guide to Product Liability, 2006.

“Securities Litigation Reform: Problems and Progress,” Viewpoint, November 1999, Issue No. 2 (co-authored).

“Trends in Securities Litigation and the Impact of the PSLRA,” Class Actions & Derivative Suits, American Bar Association Litigation Section, Vol. 9, No. 3, Summer 1999 (co-authored).

“Random Taxes, Random Claims,” Regulation, Winter 1997, pp. 6-7 (co-authored).

Expert Reports, Depositions & Testimony (4 years)

Testimony before the United States District Court Southern District of Iowa in *Mahaska Bottling Company, Inc., et al. v. PepsiCo, Inc. and Bottling Group, LLC*, 2019.

Expert Report before the United States District Court Middle District of Tennessee in *Zwick Partners LP and Aparna Rao v. Quorum Health Corporation*, 2019.

Declaration before the United States District Court Western District of Oklahoma in *In re: Samsung Top-Load Washing Machine Marketing, Sales Practices and Products Liability Litigation*, 2019.

Testimony and Expert Report before the United States District Court Southern District of New York in *Chicago Bridge & Iron Company N.V. Securities Litigation*, 2019.

Expert Report before the Court of First Instance Central Section Macau in *Asian American Entertainment Corporation Limited v. LVS (Nevada) Int. Holdings, Inc.*, 2019.

Rebuttal Report and Expert Report before the Superior Court of the State of California, Los Angeles County, in *In re MRV Communications, Inc., Stockholder Litigation*, 2019.

Expert Report before the Federal Court of Australia, New South Wales, in *Kenquist Nominees Pty Ltd. v. Peter Campbell and others*, 2019.

Declaration before the United States District Court Southern District of Iowa in *Mahaska Bottling Company, Inc., et al. v. Pepsico, Inc. and Bottling Group, LLC*, 2019.

Deposition Testimony, Rebuttal Report and Expert Report before the United States District Court Middle District of Florida in *Jacob J. Beckel v. Fagron Holdings USA, LLC et al.*, 2019.

Deposition Testimony, Rebuttal Report and Expert Report before the Clark County District Court of Nevada in *Round Square Company Limited v. Las Vegas Sands, Inc.*, 2018.

Deposition Testimony, Supplemental Report and Expert Report before the United States District Court Middle District of Tennessee in *Nikki Bollinger Grae v. Corrections Corporation of America et al.*, 2018.

Deposition Testimony, Rebuttal Report and Expert Report before the District Court for the State of Nevada in *Dan Schmidt v. Liberator Medical Holdings, Inc., et al.*, 2018.

Deposition Testimony and Expert Report before the United States District Court Northern District of Illinois Eastern Division in *In re the Allstate Corporation Securities Litigation*, 2018.

Expert Report before the United States District Court Central District of Californian Southern Division in *Steven Rupp et al. v. Xavier Becerra et al.*, 2018.

Supplemental Report and Expert Report before the United States District Court Middle District of Tennessee in *Zwick Partners LP and Aparna Rao v. Quorum Health Corporation, et al.*, 2018.

Declaration before the Superior Court of the State of Vermont in *Vermont Federation of Sportsmen's Club et al. v. Matthew Birmingham et al.*, 2018.

Testimony and Expert Report before the American Arbitration Association in *Arctic Glacier U.S.A, Inc. and Arctic Glacier U.S.A., Inc. Savings and Retirement Plan v. Principal Life Insurance Company*, 2018.

Deposition Testimony and Expert Report before the United States District Court Southern District of New York in *Marvin Pearlstein v. Blackberry Limited et al.*, 2018.

Deposition Testimony, Rebuttal Report and Expert Report before the United States District Court Eastern District of Texas in *Alan Hall and James DePalma v. Rent-A-Center, Inc., Robert D. Davis, and Guy J. Constant*, 2018.

Deposition Testimony, Surrebuttal Report, Rebuttal Report and Expert Report before the United States District Court Southern District of Iowa in *Mahaska Bottling Company, Inc., et al. v. PepsiCo, Inc. and Bottling Group, LLC*, 2018.

Testimony, Deposition Testimony and Declaration before the United States District Court District of New Jersey in *Association of New Jersey Rifle & Pistol Clubs, Inc. et al. v. Gurbir Grewal et al.*, 2018.

Deposition Testimony, Supplemental Report and Expert Report before the Supreme Court of the State of New York in *Bernstein Liebhard, LLP v. Sentinel Insurance Company, Ltd.*, 2018.

Expert Report before the District Court for Douglas County, Nebraska in *Union Pacific Railroad Company v. L.B. Foster Company and CXT Incorporated*, 2018.

Deposition Testimony and Declarations before the United States District Court Southern District of New York in *Andrew Meyer v. Concordia International Corp., et al.*, 2018.

Deposition Testimony before the United States District Court Southern District of California in *Virginia Duncan, et al. v. Xavier Becerra, et al.*, 2018.

Expert Report and Declaration before the United States District Court Southern District of California in *Virginia Duncan, et al. v. Xavier Becerra, et al.*, 2017.

Deposition Testimony and Expert Report before the United States District Court for the Western District of Texas, Austin Division in *City of Pontiac General Employees' Retirement System v. Dell, Inc., et al.*, 2017.

Deposition Testimony and Expert Report before the United States District Court for the Southern District of Texas, Houston Division in *In re Willbros Group, Inc. Securities Litigation*, 2017.

Declaration before the United States District Court Eastern District of California in *William Wiese, et al. v. Xavier Becerra, et al.*, 2017.

Deposition Testimony and Expert Report before the United States District Court for the Southern District of Texas, Houston Division in *In re Cobalt International Energy Inc. Securities Litigation.*, 2017.

Testimony, Deposition Testimony and Expert Report before the United States District Court for the Northern District of Texas, Dallas Division in *DEKA Investment GmbH, et al. v. Santander Consumer USA Holdings, Inc., et al.*, 2017.

Deposition Testimony before the Superior Court of the State of North Carolina for Mecklenburg County in *Next Advisor, Inc. v. LendingTree, Inc.*, 2017

Deposition Testimony and Expert Report before the Supreme Court of the State of New York, County of New York in *Iroquois Master Fund Ltd., et al. v. Hyperdynamics Corporation*, 2016.

Deposition Testimony and Expert Report before the United States District Court for the Northern District of Texas, Dallas Division in *The Archdiocese of Milwaukee Supporting Fund, Inc., et al. v. Halliburton Company, et al.*, 2016.

Expert Report before the United States District Court for the Northern District of Georgia, Atlanta Division, in *In re Suntrust Banks, Inc. ERISA Litigation*, 2016.

Appendix B
Public Mass Shootings Data
1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s) Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1. Jersey City Kosher Supermarket	Jersey City, NJ	12/10/19	MJ/WaPo	-	No	4	3	7	-	Yes	5
2. Football-watching party	Fresno, CA	11/17/19	WaPo	-	No	4	6	10	-	-	2
3. Halloween Party	Orinda, CA	11/1/19	WaPo	-	-	5	0	5	-	-	1
4. Tequila KC bar	Kansas City, KS	10/6/19	WaPo	-	No	4	5	9	-	No	2
5. Midland-Odessa Highways	Odessa, TX	8/31/19	MJ/VP/WaPo	-	Yes	7	25	32	-	No	1
6. Dayton	Dayton, OH	8/4/19	MJ/VP/WaPo	Yes	Yes	9	27	36	41 ^f	Yes	1/2
7. El Paso Walmart	El Paso, TX	8/3/19	MJ/VP/WaPo	Yes	Yes	22	26	48	-	Yes	1
8. Casa Grande Senior Mobile Estates	Santa Maria, CA	6/19/19	WaPo	-	-	4	0	4	-	-	1
9. Virginia Beach Municipal Center	Virginia Beach, VA	5/31/19	MJ/VP/WaPo	Yes	No	12	4	16	-	Yes	2
10. Henry Pratt Co.	Aurora, IL	2/15/19	MJ/VP/WaPo	-	No	5	6	11	-	No	1
11. SunTrust Bank	Sebring, FL	1/23/19	MJ/VP/WaPo	-	No	5	0	5	-	Yes	1
12. Borderline Bar & Grill	Thousand Oaks, CA	11/7/18	MJ/VP/WaPo	Yes	No	12	1	13	50 ^g	Yes	1
13. Tree of Life Synagogue	Pittsburgh, PA	10/27/18	MJ/VP/WaPo	-	Yes	11	6	17	-	Yes	4
14. T&T Trucking	Bakersfield, CA	9/12/18	MJ/VP/WaPo	No	No	5	0	5	-	-	1
15. Capital Gazette	Annapolis, MD	6/28/18	MJ/VP/WaPo	-	No	5	2	7	-	Yes	1
16. Santa Fe High School	Santa Fe, TX	5/18/18	MJ/VP/WaPo	No	No	10	13	23	-	-	2
17. Waffle House	Nashville, TN	4/22/18	MJ/VP/WaPo	-	Yes	4	4	8	-	Yes	1
18. Detroit	Detroit, MI	2/26/18	VP	-	No	4	0	4	-	-	-
19. Stoneman Douglas HS	Parkland, FL	2/14/18	CC/MJ/VP/WaPo	Yes	No	17	17	34	-	Yes	1
20. Pennsylvania Carwash	Melcroft, PA	1/28/18	MJ/VP/WaPo	-	-	4	1	5	-	-	3 ^h
21. Rancho Tehama	Rancho Tehama, CA	11/14/17	MJ/VP/WaPo	Yes	Yes	4	10	14	30 ⁱ	No	2
22. Texas First Baptist Church	Sutherland Springs, TX	11/5/17	CC/MJ/VP/WaPo	Yes	Yes	26	20	46	450 ^j	Yes	1
23. Las Vegas Strip	Las Vegas, NV	10/1/17	CC/MJ/VP/WaPo	Yes	Yes	58	422	480	1100 ^k	Yes	23
24. Taos and Rio Arriba counties	Abiquiu, NM	6/15/17	WaPo	No	No	5	0	5	-	-	1
25. Fiamma Workplace	Orlando, FL	6/5/17	CC/MJ/VP/WaPo	No	No	5	0	5	-	-	1
26. Marathon Savings Bank	Rothschild, WI	3/22/17	VP/WaPo	-	No	4	0	4	-	-	2
27. Club 66	Yazoo City, MS	2/6/17	VP/WaPo	-	-	4	0	4	-	-	1
28. Fort Lauderdale Airport	Fort Lauderdale, FL	1/6/17	CC/MJ/VP/WaPo	No	No	5	6	11	15 ^l	Yes	1
29. Cascade Mall	Burlington, WA	9/23/16	CC/MJ/VP/WaPo	Yes	No	5	0	5	-	-	1

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1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s) Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
30. Dallas Police	Dallas, TX	7/7/16	CC/MJ/VP/WaPo	Yes	Yes	5	11	16	-	Yes	3
31. Walgreens Parking Lot	Las Vegas, NV	6/29/16	WaPo	-	-	4	0	4	-	-	1
32. Orlando Nightclub	Orlando, FL	6/12/16	CC/MJ/VP/WaPo	Yes	Yes	49	53	102	110 ^m	Yes	2
33. Franklin Avenue Cookout	Wilkinsburg, PA	3/9/16	VP/WaPo	Yes	Yes	6	3	9	48 ⁿ	No	2
34. Kalamazoo	Kalamazoo County, MI	2/20/16	MJ/VP/WaPo	Yes	No	6	2	8	-	Yes	1
35. San Bernardino	San Bernardino, CA	12/2/15	CC/MJ/VP/WaPo	Yes	Yes	14	22	36	150 ^o	Yes	4
36. Tennessee Colony campsite	Anderson County, TX	11/15/15	VP/WaPo	-	-	6	0	6	-	-	1
37. Umpqua Community College	Roseburg, OR	10/1/15	CC/MJ/VP/WaPo	-	No	9	9	18	-	Yes	6
38. Chattanooga Military Center	Chattanooga, TN	7/16/15	CC/MJ/VP/WaPo	Yes	Yes	5	2	7	-	Yes	3
39. Charleston Church	Charleston, SC	6/17/15	CC/MJ/VP/WaPo	Yes	No	9	3	12	-	Yes	1
40. Marysville High School	Marysville, WA	10/24/14	CC/MJ/VP/WaPo	Yes	No	4	1	5	-	No	1
41. Isla Vista	Santa Barbara, CA	5/23/14	MJ/VP/WaPo	No	No	6	13	19	50 ^p	Yes	3
42. Alturas Tribal	Alturas, CA	2/20/14	MJ/VP/WaPo	-	No	4	2	6	-	-	2
43. Washington Navy Yard	Washington, D.C.	9/16/13	CC/MJ/VP/WaPo	No	No	12	8	20	-	Yes	2
44. Hialeah	Hialeah, FL	7/26/13	CC/MJ/VP/WaPo	Yes	No	6	0	6	10 ^q	Yes	1
45. Santa Monica	Santa Monica, CA	6/7/13	CC/MJ/VP/WaPo	Yes	Yes	5	3	8	70 ^r	Yes	2
46. Federal Way	Federal Way, WA	4/21/13	MJ/VP/WaPo	-	No	4	0	4	-	Yes	2
47. Upstate New York	Herkimer County, NY	3/13/13	MJ/VP/WaPo	-	No	4	2	6	-	Yes	1
48. Newtown School	Newtown, CT	12/14/12	CC/MJ/VP/WaPo	Yes	Yes	27	2	29	154	No	4/3
49. Accent Signage Systems	Minneapolis, MN	9/27/12	CC/MJ/VP/WaPo	Yes	No	6	2	8	46	Yes	1
50. Sikh Temple	Oak Creek, WI	8/5/12	CC/MJ/VP/WaPo	Yes	No	6	4	10	-	Yes	1
51. Aurora Movie Theater	Aurora, CO	7/20/12	CC/MJ/VP/WaPo	Yes	Yes	12	70	82	80	Yes	4
52. Seattle Café	Seattle, WA	5/30/12	CC/MJ/VP/WaPo	No	No	5	1	6	-	Yes	2
53. Oikos University	Oakland, CA	4/2/12	CC/MJ/VP/WaPo	No	No	7	3	10	-	Yes	1
54. Su Jung Health Sauna	Norcross, GA	2/22/12	MJ/WaPo	-	No	4	0	4	-	Yes	1
55. Seal Beach	Seal Beach, CA	10/14/11	CC/MJ/VP/WaPo	No	No	8	1	9	-	Yes	3
56. IHOP	Carson City, NV	9/6/11	CC/MJ/VP/WaPo	Yes	Yes	4	7	11	-	Yes	3
57. Akron	Akron, OH	8/7/11	VP	No	No	7	2	9	21 ^s	-	-
58. Forum Roller World	Grand Prairie, TX	7/23/11	WaPo	-	No	5	4	9	-	-	1

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Public Mass Shootings Data
1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s) Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
59. Grand Rapids	Grand Rapids, MI	7/7/11	CC	Yes	No	7	2	9	10	-	1
60. Family law practice	Yuma, AZ	6/2/11	WaPo	-	-	5	1	6	-	-	1
61. Tucson	Tucson, AZ	1/8/11	CC/MJ/VP/WaPo	Yes	No	6	13	19	33	Yes	1
62. Jackson	Jackson, KY	9/11/10	VP	No	No	5	0	5	12 ^t	-	-
63. City Grill	Buffalo, NY	8/14/10	VP/WaPo	-	No	4	4	8	10 ^u	-	1
64. Hartford Beer Distributor	Manchester, CT	8/3/10	CC/MJ/VP/WaPo	Yes	No	8	2	10	11	Yes	2
65. Yoyito Café	Hialeah, FL	6/6/10	CC/VP/WaPo	No	No	4	3	7	9 ^v	-	-
66. Hot Spot Café	Los Angeles, CA	4/3/10	VP/WaPo	-	No	4	2	6	50 ^w	-	1
67. Coffee Shop Police	Parkland, WA	11/29/09	CC/MJ/VP/WaPo	No	No	4	0	4	-	No	2
68. Fort Hood	Fort Hood, TX	11/5/09	CC/MJ/VP/WaPo	Yes	No	13	32	45	214	Yes	1
69. Worth Street	Mount Airy, NC	11/1/09	VP/WaPo	-	Yes	4	0	4	16 ^x	No	1
70. Binghamton	Binghamton, NY	4/3/09	CC/MJ/VP/WaPo	Yes	No	13	4	17	99	Yes	2
71. Carthage Nursing Home	Carthage, NC	3/29/09	CC/MJ/VP/WaPo	No	No	8	2	10	-	Yes	2
72. Skagit County	Alger, WA	9/2/08	VP/WaPo	-	No	6	4	10	-	No	2
73. Atlantis Plastics	Henderson, KY	6/25/08	CC/MJ/VP/WaPo	No	No	5	1	6	-	Yes	1
74. Black Road Auto	Santa Maria, CA	3/18/08	VP/WaPo	-	No	4	0	4	17 ^y	-	1
75. Northern Illinois University	DeKalb, IL	2/14/08	CC/MJ/VP/WaPo	Yes	No	5	21	26	54	Yes	4
76. Kirkwood City Council	Kirkwood, MO	2/7/08	CC/MJ/VP/WaPo	No	No	6	1	7	-	No	2
77. Youth With a Mission and New Life Church	Colorado Springs, CO	12/9/07	VP/WaPo	Yes	Yes	4	5	9	25 ^z	-	3
78. Westroads Mall	Omaha, NE	12/5/07	CC/MJ/VP/WaPo	Yes	Yes	8	5	13	14	No	1
79. Crandon	Crandon, WI	10/7/07	CC/MJ/WaPo	Yes	-	6	1	7	30 ^{aa}	Yes	1
80. Virginia Tech	Blacksburg, VA	4/16/07	CC/MJ/VP/WaPo	Yes	No	32	17	49	176	Yes	2
81. Trolley Square	Salt Lake City, UT	2/12/07	CC/MJ/VP/WaPo	No	No	5	4	9	-	No	2
82. Amish School	Lancaster County, PA	10/2/06	CC/MJ/VP/WaPo	No	No	5	5	10	-	Yes	3
83. The Ministry of Jesus Christ	Baton Rouge, LA	5/21/06	VP/WaPo	-	No	5	1	6	-	-	1
84. Capitol Hill	Seattle, WA	3/25/06	CC/MJ/VP/WaPo	Yes	Yes	6	2	8	-	Yes	4
85. Goleta Postal	Goleta, CA	1/30/06	CC/MJ/VP/WaPo	Yes	No	7	0	7	-	Yes	1
86. Sash Assembly of God	Sash, TX	8/29/05	VP/WaPo	-	No	4	0	4	-	-	2
87. Red Lake	Red Lake, MN	3/21/05	CC/MJ/VP/WaPo	No	No	9	7	16	-	No	3

Appendix B
Public Mass Shootings Data
1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s) Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
88. Living Church of God	Brookfield, WI	3/12/05	CC/MJ/VP/WaPo	Yes	No	7	4	11	-	Yes	1
89. Fulton County Courthouse	Atlanta, GA	3/11/05	VP/WaPo	-	No	4	0	4	-	No	1
90. Damageplan Show	Columbus, OH	12/8/04	CC/MJ/VP/WaPo	No	No	4	3	7	15 ^{ab}	Yes	1
91. Hunting Camp	Meteor, WI	11/21/04	CC/VP/WaPo	Yes	Yes	6	2	8	20	-	1
92. ConAgra Foods Plant	Kansas City, KS	7/3/04	VP/WaPo	-	No	6	1	7	10 ^{ac}	-	2
93. Stateline Tavern	Oldtown, ID	10/24/03	VP/WaPo	Yes	No	4	0	4	14 ^{ad}	-	1
94. Windy City Warehouse	Chicago, IL	8/27/03	CC/VP/WaPo	No	No	6	0	6	-	-	-
95. Lockheed Martin	Meridian, MS	7/8/03	CC/MJ/VP/WaPo	-	No	6	8	14	-	Yes	5
96. Labor Ready	Huntsville, AL	2/25/03	VP/WaPo	-	No	4	1	5	-	-	1
97. Bertrand Products	South Bend, IN	3/22/02	VP/WaPo	-	No	4	2	6	-	-	2
98. Burns International Security	Sacramento, CA	9/10/01	VP/WaPo	Yes	Yes	5	2	7	200 ^{ae}	-	2
99. Bookcliff RV Park	Rifle, CO	7/3/01	VP/WaPo	No	No	4	3	7	6 ^{af}	-	1
100. Navistar	Melrose Park, IL	2/5/01	CC/MJ/VP/WaPo	Yes	No	4	4	8	-	Yes	4
101. Houston	Houston, TX	1/9/01	VP	-	No	4	0	4	-	-	-
102. Wakefield	Wakefield, MA	12/26/00	CC/MJ/VP/WaPo	Yes	-	7	0	7	37	Yes	3
103. Mount Lebanon	Pittsburgh, PA	4/28/00	VP/WaPo	No	No	5	1	6	-	Yes	1
104. Mi-T-Fine Car Wash	Irving, TX	3/20/00	VP/WaPo	-	No	5	1	6	-	-	-
105. Hotel	Tampa, FL	12/30/99	CC/MJ/VP/WaPo	No	No	5	3	8	-	Yes	2
106. Xerox	Honolulu, HI	11/2/99	CC/MJ/VP/WaPo	Yes	No	7	0	7	28	Yes	1
107. Wedgwood Baptist Church	Fort Worth, TX	9/15/99	CC/MJ/VP/WaPo	Yes	No	7	7	14	30	Yes	2
108. Atlanta Day Trading	Atlanta, GA	7/29/99	MJ/VP/WaPo	-	No	9	13	22	-	Yes	4
109. Albertson's Supermarket	Las Vegas, NV	6/3/99	VP/WaPo	-	No	4	1	5	-	-	1
110. Columbine High School	Littleton, CO	4/20/99	CC/MJ/VP/WaPo	Yes	Yes	13	23	36	188	No	4
111. New St. John Fellowship Baptist Church	Gonzalez, LA	3/10/99	VP/WaPo	-	No	4	4	8	-	-	1
112. Thurston High School	Springfield, OR	5/21/98	CC/MJ/VP/WaPo	Yes	No	4	25	29	50	No	3
113. Westside Middle School	Jonesboro, AR	3/24/98	CC/MJ/VP/WaPo	Yes	No	5	10	15	26	No	9/10
114. Connecticut Lottery	Newington, CT	3/6/98	CC/MJ/VP/WaPo	Yes	No	4	0	4	5	Yes	1
115. Caltrans Maintenance Yard	Orange, CA	12/18/97	CC/MJ/VP/WaPo	Yes	Yes	4	2	6	144	Yes	1
116. Erie Manufacturing	Bartow, FL	12/3/97	VP	-	No	4	0	4	12 ^{ag}	-	-

Appendix B
Public Mass Shootings Data
1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s) Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
117. R.E. Phelon Company	Aiken, SC	9/15/97	CC/MJ/VP/WaPo	No	No	4	3	7	-	No	1
118. News and Sentinel	Colebrook, NH	8/20/97	VP/WaPo	-	Yes	4	4	8	-	-	2
119. Fire Station	Jackson, MS	4/25/96	VP/WaPo	-	No	5	3	8	-	-	3
120. Fort Lauderdale	Fort Lauderdale, FL	2/9/96	CC/MJ/VP/WaPo	No	No	5	1	6	14 ^{ah}	Yes	2
121. Little Chester Shoes	New York, NY	12/19/95	VP/WaPo	Yes	No	5	3	8	-	-	1
122. Piper Technical Center	Los Angeles, CA	7/19/95	CC/VP/WaPo	Yes	No	4	0	4	-	-	-
123. Walter Rossler Company	Corpus Christi, TX	4/3/95	CC/MJ/VP/WaPo	No	No	5	0	5	-	Yes	2
124. Puppy creek	Hoke County, NC	12/31/94	VP	-	-	5	1	6	-	-	-
125. Air Force Base	Fairchild Base, WA	6/20/94	CC/MJ/VP/WaPo	Yes	Yes	4	23	27	50 ^{ai}	Yes	1
126. Chuck E. Cheese	Aurora, CO	12/14/93	CC/MJ/VP/WaPo	No	No	4	1	5	-	-	1
127. Long Island Railroad	Garden City, NY	12/7/93	CC/MJ/VP/WaPo	Yes	No	6	19	25	30	Yes	1
128. Unemployment Office	Oxnard, CA	12/2/93	VP/WaPo	-	-	4	4	8	-	-	-
129. Family Fitness Club	El Cajon, CA	10/14/93	VP/WaPo	-	No	4	0	4	-	Yes	1
130. Luigi's Restaurant	Fayetteville, NC	8/6/93	CC/MJ/VP/WaPo	No	No	4	8	12	-	Yes	3
131. Washington County Bar	Jackson, MS	7/8/93	WaPo	-	-	5	0	5	-	-	1
132. 101 California Street	San Francisco, CA	7/1/93	CC/MJ/VP/WaPo	Yes	Yes	8	6	14	75	No	3
133. Card club	Paso Robles, CA	11/8/92	VP/WaPo	-	No	6	1	7	-	-	1
134. Watkins Glen	Watkins Glen, NY	10/15/92	CC/MJ/VP/WaPo	No	No	4	0	4	-	Yes	1
135. Lindhurst High School	Olivehurst, CA	5/1/92	CC/MJ/VP/WaPo	No	No	4	10	14	-	Yes	2
136. Phoenix	Phoenix, AZ	3/15/92	VP	-	-	4	0	4	-	-	-
137. Royal Oak Postal	Royal Oak, MI	11/14/91	CC/MJ/VP/WaPo	Yes	No	4	4	8	-	Yes	1
138. Restaurant	Harrodsburg, KY	11/10/91	VP/WaPo	No	No	4	0	4	6 ^{aj}	No	1
139. University of Iowa	Iowa City, IA	11/1/91	CC/MJ/VP/WaPo	No	No	5	1	6	-	Yes	1
140. Luby's Cafeteria	Killeen, TX	10/16/91	CC/MJ/VP/WaPo	Yes	No	23	20	43	100	Yes	2
141. Post office	Ridgewood, NJ	10/10/91	VP/WaPo	Yes	Yes	4	0	4	-	-	2
142. GMAC	Jacksonville, FL	6/18/90	CC/MJ/VP/WaPo	Yes	No	9	4	13	14	Yes	2
143. Standard Gravure Corporation	Louisville, KY	9/14/89	CC/MJ/VP/WaPo	Yes	Yes	8	12	20	21	Yes	5
144. Stockton Schoolyard	Stockton, CA	1/17/89	CC/MJ/VP/WaPo	Yes	Yes	5	29	34	106	Yes	2
145. Montefiore School	Chicago, IL	9/22/88	VP/WaPo	No	No	4	2	6	-	-	1

Appendix B
Public Mass Shootings Data
1982 – 2019

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
146. Old Salisbury Road	Winston-Salem, NC	7/17/88	VP/WaPo	-	No	4	5	9	-	-	1
147. ESL	Sunnyvale, CA	2/16/88	CC/MJ/VP/WaPo	No	No	7	4	11	-	Yes	7
148. Shopping Centers	Palm Bay, FL	4/23/87	CC/MJ/VP/WaPo	Yes	No	6	14	20	40 ^{ak}	Yes	3
149. United States Postal Service	Edmond, OK	8/20/86	CC/MJ/VP/WaPo	No	-	14	6	20	-	Yes	3
150. Anchor Glass Container Corporation	South Connellsville, PA	3/16/85	VP/WaPo	No	No	4	1	5	-	-	1
151. Other Place Lounge	Hot Springs, AR	7/24/84	VP/WaPo	No	No	4	1	5	-	-	1
152. San Ysidro McDonald's	San Ysidro, CA	7/18/84	CC/MJ/VP/WaPo	Yes	Yes	21	19	40	257	Yes	3
153. Dallas Nightclub	Dallas, TX	6/29/84	CC/MJ/VP/WaPo	Yes	No	6	1	7	-	No	1
154. Alaska Mining Town	Manley Hot Springs, AK	5/17/84	VP/WaPo	No	No	7	0	7	-	-	1
155. College Station	Collge Station, TX	10/11/83	VP	-	No	6	0	6	-	-	-
156. Alaska Back-County	McCarthy, AK	3/1/83	VP/WaPo	-	No	6	2	8	-	-	2
157. Upper West Side Hotel	New York, NY	2/3/83	VP	No	No	4	1	5	-	-	1
158. The Investor	Noyes Island, AK	9/6/82	WaPo	-	No	8	0	8	-	-	1
159. Welding Shop	Miami, FL	8/20/82	MJ/VP/WaPo	No	No	8	3	11	-	Yes	1
160. Western Transfer Co.	Grand Prairie, TX	8/9/82	VP/WaPo	-	No	6	4	10	-	-	3
161. Russian Jack Springs Park	Anchorage, AK	5/3/82	VP/WaPo	-	No	4	0	4	-	No	1
Assault Weapon Average						11.6	26.5	38.1	152.2		
Non-Assault Weapon Average						6.1	3.9	10.0	37.9		
Large-Capacity Magazine Average						10.1	16.7	26.7	103.3		
Non-Large Capacity Magazine Average						5.7	2.9	8.6	16.4		

Notes and Sources:

Public Mass Shootings from Mother Jones ("US Mass Shootings, 1982-2019: Data from Mother Jones' Investigation," updated December 11, 2019). MJ indicates a mass shooting identified by Mother Jones.

The Citizens Crime Commission of New York City ("Mayhem Multiplied: Mass Shooters and Assault Weapons," February 2018 update, and "Citizens Crime Commission of New York City, Mass Shooting Incidents in America (1984-2012)," accessed June 1, 2017). CC indicates a mass shooting identified by Citizens Crime Commission of New York City data.

The Washington Post ("The Terrible Numbers That Grow With Each Mass Shooting," updated December 18, 2019). WaPo indicates a mass shooting identified by The Washington Post.

The Violence Project ("Mass Shooter Database," accessed January 17, 2020). VP indicates a mass shooting identified by the Violence Project.

^a Large capacity magazines are those with a capacity to hold more than 10 rounds of ammunition. Stories from Factiva and Google searches reviewed to determine whether an LCM was involved.

Appendix B
Public Mass Shootings Data
1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s) Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

^b See Appendix C for details.

^c Offender(s) are not included in counts of fatalities and injuries. Stories from Factiva and Google searches reviewed to determine number of fatalities and injuries.

^d Except where noted, all data on shots fired obtained from CC.

^e The determination of whether guns were obtained legally is based on Mother Jones and Washington Post reporting.

^f "The Dayton gunman killed 9 people by firing 41 shots in 30 seconds. A high-capacity rifle helped enable that speed," CNN, August 5, 2019.

^g "Authorities Describe 'Confusion And Chaos' At Borderline Bar Shooting In California," NPR, November 28, 2018.

^h "Suspect in quadruple killing at car wash dies," CNN, January 30, 2018.

ⁱ "California gunman fired 30 rounds at elementary school, left when he couldn't get inside," ABC News, November 15, 2017.

^j "'Be quiet! It's him!' Survivors say shooter walked pew by pew looking for people to shoot," CNN, November 9, 2017.

^k "Sheriff Says More than 1,100 Rounds Fired in Las Vegas," *Las Vegas Review Journal*, November 22, 2017

^l "Fort Lauderdale Shooting Suspect Appears in Court, Ordered Held Without Bond," *Washington Post*, January 9, 2017.

^m "'We Thought It Was Part of the Music': How the Pulse Nightclub Massacre Unfolded in Orlando," *The Telegraph*, June 13, 2016.

ⁿ "Two men charged with homicide in connection with Wilkinsburg backyard ambush," *Pittsburgh's Action News*, June 24, 2016.

^o "San Bernardino Suspects Left Trail of Clues, but No Clear Motive," *New York Times*, December 3, 2015.

^p "Sheriff: Elliot Rodger Fired 50-plus Times in Isle Vista Rampage," *Los Angeles Times*, June 4, 2014.

^q "Shooter Set \$10,000 on Fire in Hialeah Shooting Rampage," *NBC News*, July 28, 2013.

^r "Police Call Santa Monica Gunman 'Ready for Battle,'" *New York Times*, June 8, 2013.

^s "Questions linger in slayings; investigation continues in rampage as community searches for answers on why gunman shot eight people," *The Beacon Journal*, August 14, 2011.

^t "Kentucky Tragedy: Man Kills Wife, Five Others, in Rampage Over Cold Eggs, Say Cops," *CBS News*, September 13, 2010.

^u "Ex-gang member guilty of shooting 5 in deadly 17-second rampage," *NBC*, April 1, 2011.

^v "Hialeah Gunman's Rage Over Estranged Wife Leaved 5 Dead," *Sun-Sentinel*, June 7, 2010.

^w "Man convicted of killing 4 at Los Angeles restaurant," *Associated Press*, March 15, 2016.

Appendix B
Public Mass Shootings Data
1982 – 2019

Case	Location	Date	Source	Large Capacity Mag.? ^a	Assault Weapon? ^b	Fatalities ^c	Injuries ^c	Total Fatalities & Injuries ^c	Shots Fired ^d	Gun(s) Obtained Legally? ^e	Offender(s)' Number of Guns
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

^x "4 Victims In Mount Airy Shooting Related, Police Say," *WXII 12 News* , November 2, 2009.

^y "Arrested suspect might have warned of Santa Maria shooting", *Associated Press* , March 20, 2008.

^z "Profile: New information released on Matthew Murray, gunman in church-related shootings in Colorado; Larry Bourbannais, wounded in one of the shootings, discusses his experience," *NBC News* , December 11, 2007.

^{aa} "Small Town Grieves for 6, and the Killer," *Los Angeles Times* , October 9, 2007.

^{ab} "National Briefing | Midwest: Ohio: Shooter At Club May Have Reloaded," *New York Times* , January 15, 2005.

^{ac} "Sixth person dies of injuries from shooting at Kansas meatpacking plant," *Associated Press* , July 3, 2004.

^{ad} "Four Killed In Oldtown Shooting," *The Miner* , October 30, 2003.

^{ae} "Sacramento shooter unscathed before killing self, autopsy shows," *Associated Press* , September 14, 2001.

^{af} "Gunman kills 3, wounds 4 in Rifle rampage; mental patient is arrested," *The Denver Post* , April 2, 2015.

^{ag} "Unfinished business," *Dateline NBC* , December 21, 2006.

^{ah} "5 Beach Workers in Florida are Slain by Ex-Colleague," *New York Times* , February 10, 1996.

^{ai} "Man Bent On Revenge Kills 4, Hurts 23 -- Psychiatrist Is First Slain In Rampage At Fairchild Air Force Base," *The Seattle Times* , June 21, 1994.

^{aj} "Man Killed Estranged Wife, Three Others as They Drove to Dinner," *Associated Press* , November 11, 1991.

^{ak} "6 Dead in Florida Sniper Siege; Police Seize Suspect in Massacre," *Chicago Tribune* , April 25, 1987.

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. Jersey City Kosher Supermarket	Jersey City, NJ	12/10/19	-	-	mossberg 12-gauge; .22-caliber ruger Mark IV; AR-15-style rifle; Ruger 9mm semiautomatic pistol; 9mm glock 17	No
2. Football-watching party	Fresno, CA	11/17/19	-	-	two semiautomatic handguns	No
3. Halloween Party	Orinda, CA	11/1/19	-	-	-	-
4. Tequila KC bar	Kansas City, KS	10/6/19	-	-	Handgun	No
5. Midland-Odessa Highways	Odessa, TX	8/31/19	-	semiautomatic rifle	AR-style rifle	Yes ^e
6. Dayton	Dayton, OH	8/4/19	-	AR-15-style rifle , with a 100-round capacity ammunition drum	23 caliber anderson AM-15 pistol modified to function like an AR-15 rifle , shotgun	Yes
7. El Paso Walmart	El Paso, TX	8/3/19	-	AK-47-style rifle , per authorities	7.62 caliber AK-47 style rifle	Yes
8. Casa Grande Senior Mobile Estates	Santa Maria, CA	6/19/19	-	-	-	-
9. Virginia Beach Municipal Center	Virginia Beach, VA	5/31/19	-	.45-caliber handguns; noise suppressor (silencer); several high-capacity magazines	.45 caliber handgun with noise suppressor, .45 caliber handgun	No
10. Henry Pratt Co.	Aurora, IL	2/15/19	-	Smith & Wesson handgun, with a green sighting laser	.40-caliber Smith & Wesson semiautomatic handgun	No
11. SunTrust Bank	Sebring, FL	1/23/19	-	9 mm handgun	9mm semiautomatic handgun	No
12. Borderline Bar & Grill	Thousand Oaks, CA	11/7/18	-	Glock 21, .45 caliber; high-capacity magazine	Glock 21 .45-caliber handgun	No
13. Tree of Life Synagogue	Pittsburgh, PA	10/27/18	-	AR-15 ; Glock .357	Colt AR-15 semiautomatic rifle ; three glock .357 pistols	Yes ^f
14. T&T Trucking	Bakersfield, CA	9/12/18	-	-	.50-caliber Smith & Wesson 500	No ^g
15. Capital Gazette	Annapolis, MD	6/28/18	-	12-gauge pump-action shotgun	2 gauge shotgun	No
16. Santa Fe High School	Santa Fe, TX	5/18/18	-	shotgun; .38 revolver	.38 caliber revolver, shotgun	No
17. Waffle House	Nashville, TN	4/22/18	-	AR-15	AR-15-style semiautomatic rifle	Yes ^h
18. Detroit	Detroit, MI	2/26/18	-	-	-	No
19. Stoneman Douglas HS	Parkland, FL	2/14/18	-	AR-15	.223 caliber smith & wesson M&P 15 semiautomatic ar 15 rifle	No ⁱ
20. Pennsylvania Carwash	Melcroft, PA	1/28/18	-	semiautomatic rifle and semiautomatic handgun	AR-15 .223-caliber semiautomatic rifle; 9mm handgun	- ^j
21. Rancho Tehama	Rancho Tehama, CA	11/14/17	-	Two illegally modified rifles	two semiautomatic rifles ; two handguns	Yes ^k
22. Texas First Baptist Church	Sutherland Springs, TX	11/5/17	-	Ruger AR-556 ; Kelley also possessed semiautomatic handguns	9mm Glock pistol; Ruger .22-caliber; Ruger AR-556	Yes ^l

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date		Weapon Description From			Assault Weapon? ^d
				Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(7)
23. Las Vegas Strip	Las Vegas, NV	10/1/17	-		AR-15-style and AK-47-style rifles and "a large cache of ammunition"; four Daniel Defense DDM4 rifles, three FN-15s and other rifles made by Sig Sauer.	-	Yes ^m
24. Taos and Rio Arriba counties	Abiquiu, NM	6/15/17	-		-	.38 caliber revolver	No
25. Fiamma Workplace	Orlando, FL	6/5/17	-		semiautomatic handgun	semiautomatic rifle (2); handgun (2)	No
26. Marathon Savings Bank	Rothschild, WI	3/22/17	-		-	Rifle, handgun	No
27. Club 66	Yazoo City, MS	2/6/17	-		-	-	-
28. Fort Lauderdale Airport	Fort Lauderdale, FL	1/6/17	-		Walther 9mm semi-automatic pistol	9mm semiautomatic handgun	No
29. Cascade Mall	Burlington, WA	9/23/16	-		Ruger .22-caliber	Ruger .22-caliber rifle	No ⁿ
30. Dallas Police	Dallas, TX	7/7/16	-		Izhmash-Saiga 5.45mm (AK-style) semiautomatic rifle with large capacity magazines; Glock 9mm handgun, .25-caliber semiautomatic handgun	SKS-type semiautomatic rifle	Yes ^o
31. Walgreens Parking Lot	Las Vegas, NV	6/29/16	-		-	-	-
32. Orlando Nightclub	Orlando, FL	6/12/16	-		Sig Sauer MCX rifle, Glock 17 9mm; high-capacity magazines (30 rounds)	.223-caliber Sig Sauer MCX semiautomatic rifle; 9mm semiautomatic glock 17 pistol	Yes ^p
33. Franklin Avenue Cookout	Wilkinsburg, PA	3/9/16	-		-	AK-47-style rifle, .40-caliber handgun	Yes
34. Kalamazoo	Kalamazoo County, MI	2/20/16	-		9 mm handgun (ammo used unclear)	Walther P-99 9mm semiautomatic handgun	No
35. San Bernardino	San Bernardino, CA	12/2/15	-		Two semiautomatic AR-15-style rifles—one a DPMS A-15, the other a Smith & Wesson M&P15, both with .223 calibre ammunition. Two 9mm semiautomatic handguns. High capacity magazines.	DPMS AR-15-style rifle; Smith & Wesson M&P AR-15-style rifle; Llama semiautomatic 9mm pistol; Smith & Wesson semiautomatic 9mm pistol	Yes ^q
36. Tennessee Colony campsite	Anderson County, TX	11/15/15	-		-	-	-
37. Umpqua Community College	Roseburg, OR	10/1/15	-		9 mm Glock pistol, .40 caliber Smith & Wesson, .40 caliber Taurus pistol, .556 caliber Del-Ton; (ammo details unclear)	rifle; five pistols	No ^r
38. Chattanooga Military Center	Chattanooga, TN	7/16/15	-		AK-47, AR-15, and 30-round magazines; 9mm handgun	AR-15-style semiautomatic rifle; 9mm pistol; AK-47-type semiautomatic rifle	Yes ^s
39. Charleston Church	Charleston, SC	6/17/15	-		.45-caliber Glock (model 41, with 13-round capacity magazine)	.45-caliber glock 41 pistol	No
40. Marysville High School	Marysville, WA	10/24/14	-		Beretta .40-caliber handgun	.40-caliber beretta pistol	No

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
41. Isla Vista	Santa Barbara, CA	5/23/14	-	Two Sig Sauer P226 semiautomatic pistols and Glock 34 pistol, and hundreds of rounds of ammo. A 6- inchand 8-inch “SRK” and “Boar Hunter” hunting knives.	Sig Sauer P226s pistol; Glock 34 pistol; Sig Sauer P226s pistol	No
42. Alturas Tribal	Alturas, CA	2/20/14	-	9mm semi-automatic handgun	Unknown	No
43. Washington Navy Yard	Washington, D.C.	9/16/13	-	Remington 870 Express 12-gauge shotgun; Beretta handgun	beretta pistol; Remington 970 Express 12-gauge shotgun	No
44. Hialeah	Hialeah, FL	7/26/13	-	Glock 17	Glock 17 pistol	No
45. Santa Monica	Santa Monica, CA	6/7/13	-	.223-caliber semi-automatic assault rifle , about 40 high capacity magazines, "black powder" handgun (likely antique)	Black powder .33-caliber handgun; AR-15 type .223-caliber semiautomatic rifle	Yes ^t
46. Federal Way	Federal Way, WA	4/21/13	-	.40 caliber semi-automatic handgun, pistol grip shotgun	.40 caliber semiautomatic pistol; pistol grip shotgun	No ^u
47. Upstate New York	Herkimer County, NY	3/13/13	-	Unknown	Unknown	No ^v
48. Newtown School	Newtown, CT	12/14/12	An unknown make and model .22-caliber rifle, a Bushmaster XM15 .223-caliber semiautomatic assault rifle equipped with a 30-round large capacity ammunition magazine, and a GLOCK 10mm handgun were used. According to the Danbury State's Attorney, police also recovered in Lanza's possession a SIG SAUER P226 9mm handgun and three loaded 30-round large capacity ammunition magazines for the Bushmaster. Six additional 30-round large capacity ammunition magazines were recovered at the scene. A loaded unknown make and model 12-gauge shotgun was found in the passenger compartment of the car (later moved to the trunk by police). All of the guns used in the shooting were purchased by Lanza's mother.	10mm Glock, 9mm SIG Sauer P226 semiautomatic handguns; .223 Bushmaster XM15-E2S semiautomatic rifle ; Izhmash Saiga-12 12-gauge semiautomatic shotgun	9mm SIG Sauer P226 pistol ;Savage Mark II bolt-action .22-caliber rifle; .223 Bushmaster XM15-E2S semiautomatic rifle ; izhmash Saiga 12-gauge semiautomatic shotgun; 10mm Glock pistol	Yes ^w
49. Accent Signage Systems	Minneapolis, MN	9/27/12	GLOCK 19 9mm semiautomatic pistol equipped with a 15-round large capacity ammunition magazine. Engeldinger purchased the firearm one year before the shooting at KGS Guns and Ammo in Minneapolis after passing a background check and obtaining a permit to purchase. Police reportedly found packaging for 10,000 rounds of ammunition and another handgun in Engeldinger's home.	9mm Glock semiautomatic handgun	9mm glock pistol	No

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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50. Sikh Temple	Oak Creek, WI	8/5/12	Springfield Armory XD(M) 9mm semiautomatic handgun equipped with a 19-round large capacity ammunition magazine. Weeks before the shooting, Wade legally purchased the handgun and three 19-round large capacity ammunition magazines from a federal firearms licensed dealer in nearby West Allis, WI. According to media reports, Wade served in the U.S. Army from 1992 until 1998, when he was given an other-than-honorable discharge or general discharge. In 1994, while stationed at Fort Bliss in Texas, he was arrested by El Paso police, and pled guilty to a misdemeanor charge of criminal mischief. Federal law does not prohibit persons with convictions for misdemeanors other than domestic violence misdemeanors or persons who have been discharged from the military for reasons other than "dishonorably" from purchasing firearms.	9mm Springfield Armory XDM semiautomatic handgun	9mm springfield armory XDM pistol	No
51. Aurora Movie Theater	Aurora, CO	7/20/12	A Smith & Wesson M&P15 assault rifle equipped with a 100-round drum large capacity ammunition magazine, a Remington Model 870 12-gauge pump shotgun, and two GLOCK .40 caliber handguns, were recovered at the scene by police. In the months leading to the shooting, Holmes purchased the weapons and 6,000-rounds of ammunition at gun shops and over the Internet. In addition to the weapons used in the shooting, Holmes booby-trapped his apartment, rigging trip wire to detonate 30 plastic shells stuffed with gunpowder, several glass jars filled with gasoline and gunpowder, and 10 gallons of gasoline in canisters.	Two .40-caliber Glock semiautomatic handguns; .223-caliber Smith & Wesson M&P15 semiautomatic rifle; 12-gauge Remington 870 pump-action shotgun	.40-caliber glock pistol; 12-gauge pump-action Remington 870 shotgun; .223-caliber Smith & Wesson M&P15 semiautomatic AR-15-style rifle	Yes ^x
52. Seattle Café	Seattle, WA	5/30/12	-	Two .45-caliber semiautomatic handguns	.45-caliber pistol (2)	No
53. Oikos University	Oakland, CA	4/2/12	-	.45-caliber semiautomatic handgun	.45-caliber pistol	No
54. Su Jung Health Sauna	Norcross, GA	2/22/12	-	.45-caliber semiautomatic handgun	-	No
55. Seal Beach	Seal Beach, CA	10/14/11	-	.45-caliber Heckler & Koch, 9mm Springfield semiautomatic handguns; .44 Magnum Smith & Wesson revolver	-	No
56. IHOP	Carson City, NV	9/6/11	AK-47 type assault rifle equipped with a 30-round large capacity ammunition magazine. Two additional guns and two more magazines were found in his vehicle.	AK-47 Norinco Arms variant, AK-47 Romarm Cugir variant rifles; .38-caliber Colt revolver	AK-47 variant semiautomatic rifle	Yes ^y
57. Akron	Akron, OH	8/7/11	-	-	-	No ^z
58. Forum Roller World	Grand Prairie, TX	7/23/11	-	-	-	No ^{aa}
59. Grand Rapids	Grand Rapids, MI	7/7/11	GLOCK 9mm semiautomatic pistol (unknown model) equipped with a 30-round large capacity ammunition magazine.	-	-	No
60. Family law practice	Yuma, AZ	6/2/11	-	-	-	-

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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(1)	(2)	(3)	(4)	(5)	(6)	(7)
61. Tucson	Tucson, AZ	1/8/11	GLOCK 19 9mm semiautomatic pistol equipped with a 33-round large capacity ammunition magazine. Loughner was also carrying two 15-round large capacity ammunition magazines, and a knife. The ATF determined Loughner legally purchased the GLOCK pistol with an extended magazine and one box of Winchester ammunition on November 30, 2010, from Sportsman's Warehouse in Tucson.	9mm Glock 19 semiautomatic handgun	9mm glock 19 pistol	No
62. Jackson	Jackson, KY	9/11/10	-	-	-	No ^{ab}
63. City Grill	Buffalo, NY	8/14/10	-	-	9mm pistol	No
64. Hartford Beer Distributor	Manchester, CT	8/3/10	Two Ruger SR9 9mm semiautomatic pistols equipped with 17-round magazines. Thornton purchased both firearms legally from an East Windsor, CT gun dealer.	Two 9mm Ruger SR9 semiautomatic handguns	9mm Ruger SR9 pistol (2)	No
65. Yoyito Café	Hialeah, FL	6/6/10	-	-	.45-caliber Glock pistol	No ^{ac}
66. Hot Spot Café	Los Angeles, CA	4/3/10	-	-	-	No ^{ad}
67. Coffee Shop Police	Parkland, WA	11/29/09	-	9mm Glock 17 semiautomatic handgun; .38-caliber Smith & Wesson revolver	.38-caliber Smith & Wesson revolver; 9mm Glock 17 pistol	No
68. Fort Hood	Fort Hood, TX	11/5/09	FN Herstal 5.7 Tactical Pistol equipped with 20-round large capacity ammunition magazine. When Hasan was apprehended, investigators found in his possession 177-rounds in 30-round and 20-round large capacity ammunition magazines, another handgun, a revolver, and two gunsights (for different lighting conditions). Hasan purchased the FN Herstal 5.7 Tactical Pistol legally at Guns Galore, a shop in Killeen, TX	FN Five-seven semiautomatic handgun	FN Five-seven pistol	No
69. Worth Street	Mount Airy, NC	11/1/09	-	-	High-powered assault-style rifle	Yes
70. Binghamton	Binghamton, NY	4/3/09	Beretta .45-caliber semiautomatic pistol, Beretta 9mm semiautomatic pistol (models unknown), and two 30-round large capacity ammunition magazines and two 15-round large capacity ammunition magazines.	9mm Beretta, .45-caliber Springfield semiautomatic handguns	9mm Beretta pistol; .45-caliber Springfield pistol	No
71. Carthage Nursing Home	Carthage, NC	3/29/09	-	Winchester 1300 pump-action shotgun; .357 Magnum revolver	.357 magnum revolver; Winchester 1300 pump-action shotgun	No
72. Skagit County	Alger, WA	9/2/08	-	-	lever-action winchester rifle, handgun	No
73. Atlantis Plastics	Henderson, KY	6/25/08	-	.45-caliber Hi-Point semiautomatic handgun	.45-caliber Hi-Point pistol	No
74. Black Road Auto	Santa Maria, CA	3/18/08	-	-	semiautomatic handgun	No

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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75. Northern Illinois University	DeKalb, IL	2/14/08	SIG SAUER Kurz 9mm semiautomatic pistol, Hi-Point CF380 .380 caliber semiautomatic pistol, GLOCK 19 9mm semiautomatic pistol, Remington Sportsman 48 12-gauge shotgun, and 33-round and 15-round large capacity ammunition magazines. Kazmierczak purchased all four weapons from Tony's Gun & Ammo in Champaign, IL between August 3, 2007 and February 9, 2008. Kazmierczak also purchased gun accessories from a website operated by TGSCOM, Inc., the same company patronized by the VA Tech shooter.	9mm Glock 19, Hi-Point CF380, 9mm Kurz SIG Sauer P232 semiautomatic handguns; 12-gauge Remington Sportsman 48 sawed-off shotgun	12-gauge Remington Sportsman 48 sawed-off shotgun; 9mm glock 19 pistol; 9mm Kurz SIG Sauer P232 pistol; Hi-Point CF380 pistol	No ^{ae}
76. Kirkwood City Council	Kirkwood, MO	2/7/08	-	.40-caliber Smith & Wesson semiautomatic handgun; .44 Magnum Smith & Wesson Model 29 revolver	.40-caliber Smith & Wesson pistol; .44 Magnum Smith & Wesson Model 29 revolver	No
77. Youth With a Mission and New Life Church	Colorado Springs, CO	12/9/07	-	-	A pistol, .223-caliber Bushmaster XM16 rifle, .40-caliber Beretta pistol	Yes
78. Westroads Mall	Omaha, NE	12/5/07	WASR-10 semiautomatic assault rifle and two 30-round large capacity ammunition magazines.	WASR-10 Century Arms semiautomatic rifle	WASR-10 Century Arms semiautomatic rifle	Yes ^{af}
79. Crandon	Crandon, WI	10/7/07	-	AR-15 SWAT semiautomatic rifle	AR-15-style semiautomatic rifle	- ^{ag}
80. Virginia Tech	Blacksburg, VA	4/16/07	GLOCK 19 9mm semiautomatic pistol and Walther P22 .22-caliber semiautomatic pistol. Investigators found a total of 17 empty magazines at the scene of the shooting, a mix of several 15-round, and 10-round magazines loaded with hollow-point rounds (bullets with the tip hollowed out, designed to expand upon impact). He possessed over 400 rounds of ammunition. Cho ordered the Walther P22 from a website operated by TGSCOM, Inc. Kazmierczak patronized the same company before the NIU shooting. On February 9, 2007, Cho picked up the pistol from J-N-D Pawn-brokers, located across the street from the VA Tech campus. In compliance with the state law limiting handgun purchases to one every 30 days, Cho purchased the GLOCK 19 on March 13, 2007. He also purchased five 10-round magazines from eBay in March. Cho's purchase of these firearms was in violation of federal law; he was disqualified from purchasing or possessing a firearm and ammunition, because a special justice of the Montgomery County General District Court had found him to be a danger to himself on December 14, 2005.	9mm Glock 19, .22-caliber Walther P22 semiautomatic handguns	.22-caliber Walther P22 pistol; 9mm Glock 19 pistol	No
81. Trolley Square	Salt Lake City, UT	2/12/07	-	Mossberg Maverick 88 Field shotgun; .38-caliber Smith & Wesson M36 revolver	.38-caliber Smith & Wesson M36 revolver; Mossberg Maverick 88 Field shotgun	No
82. Amish School	Lancaster County, PA	10/2/06	-	Springfield semiautomatic handgun; .30-06 Ruger bolt-action rifle; 12-gauge Browning pump-action shotgun	12-gauge Browning pump-action shotgun; .30-06 Ruger bolt-action rifle; Springfield 9mm semiautomatic handgun	No ^{ah}
83. The Ministry of Jesus Christ	Baton Rouge, LA	5/21/06	-	-	-	No ^{ai}

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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(1)	(2)	(3)	(4)	(5)	(6)	(7)
84. Capitol Hill	Seattle, WA	3/25/06	-	.40-caliber Ruger, one other semiautomatic handgun; Bushmaster XM15 E2S semiautomatic rifle ; 12-gauge Winchester Defender pump-action shotgun with extended tube and pistol grip	12-gauge pump-action Winchester Defender shotgun; .40-caliber Ruger pistol	Yes ^{aj}
85. Goleta Postal	Goleta, CA	1/30/06	Smith & Wesson 915 9mm semiautomatic handgun equipped with a 15-round large capacity ammunition magazine. San Marco purchased the firearm at a pawn shop in New Mexico in August 2005.	9mm Smith & Wesson 915 semiautomatic handgun	9mm Smith & Wesson 915 pistol	No
86. Sash Assembly of God	Sash, TX	8/29/05	-	-	9mm semiautomatic pistol, .38-caliber revolver	No
87. Red Lake	Red Lake, MN	3/21/05	-	.40-caliber Glock 23, .22-caliber Ruger semiautomatic handguns; 12-gauge Remington 870 shotgun	.22-caliber Ruger pistol (2); 12-gauge Remington 870 shotgun	No
88. Living Church of God	Brookfield, WI	3/12/05	-	9mm Beretta semiautomatic handgun	9mm beretta pistol	No
89. Fulton County Courthouse	Atlanta, GA	3/11/05	-	-	9mm pistol	No
90. Damageplan Show	Columbus, OH	12/8/04	-	9mm Beretta 92FS semiautomatic handgun	9mm beretta 92FS pistol	No
91. Hunting Camp	Meteor, WI	11/21/04	SKS 7.62mm semiautomatic assault rifle equipped with a 20-round large capacity ammunition magazine.	-	7.62mm SKS semiautomatic rifle	Yes ^{ak}
92. ConAgra Foods Plant	Kansas City, KS	7/3/04	-	-	9mm pistol, revolver	No
93. Stateline Tavern	Oldtown, ID	10/24/03	-	-	semiautomatic pistol	No
94. Windy City Warehouse	Chicago, IL	8/27/03	-	-	.38-caliber Walther pistol	No ^{al}
95. Lockheed Martin	Meridian, MS	7/8/03	-	.45-caliber Ruger P90 semiautomatic handgun; .22-caliber rifle with scope, .223-caliber Ruger Mini-14 rifle; 12-gauge Winchester 1300 shotgun; .22 Magnum derringer	.223-caliber Ruger Mini-14 rifle; 12-gauge Winchester 1300 shotgun	No ^{am}
96. Labor Ready	Huntsville, AL	2/25/03	-	-	semiautomatic 9mm pistol	No
97. Bertrand Products	South Bend, IN	3/22/02	-	-	.22-caliber rifle, sawed-off shotgun	No
98. Burns International Security	Sacramento, CA	9/10/01	-	-	AK-47-type semiautomatic rifle , 9mm pistol	Yes ^{an}
99. Bookcliff RV Park	Rifle, CO	7/3/01	-	-	.38 caliber Charter Arms revolver	No
100. Navistar	Melrose Park, IL	2/5/01	-	SKS 1954R, .30-caliber Winchester rifles; 12-gauge Remington pump-action shotgun; .38-caliber revolver	12-gauge Remington pump-action shotgun; SKS 1954R rifle; .30-caliber Winchester rifle; .38-caliber revolver;	No ^{ao}
101. Houston	Houston, TX	1/9/01	-	-	-	No ^{ap}

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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102. Wakefield	Wakefield, MA	12/26/00	AK-47-type semiautomatic assault rifle, unknown make and model 12-gauge shotgun, unknown make and model .32-caliber semiautomatic pistol, and 60-round large capacity ammunition magazine.	.32-caliber Retolaza semiautomatic handgun; AK-47 variant semiautomatic rifle ; 12-gauge Winchester 1300 pump-action shotgun	.32-caliber Retolaza pistol; AK-47 variant semiautomatic rifle; 12-gauge Winchester 1300 pump-action shotgun	- aq
103. Mount Lebanon	Pittsburgh, PA	4/28/00	-	-	.357 Magnum revolver	No
104. Mi-T-Fine Car Wash	Irving, TX	3/20/00	-	-	semiautomatic .9mm pistol	No
105. Hotel	Tampa, FL	12/30/99	-	9mm Lorcin semiautomatic handgun; .38-caliber Charter Arms revolver	.38-caliber Charter Arms revolver; 9mm Lorcin pistol	No
106. Xerox	Honolulu, HI	11/2/99	GLOCK 17 9mm semiautomatic pistol and three 17-round large capacity ammunition magazines, loaded with hollow point bullets (bullets with the tip hollowed out, designed to expand upon impact). Uyesugi legally purchased the GLOCK in 1989.	9mm Glock 17 semiautomatic handgun	9mm Glock 17 pistol	No
107. Wedgwood Baptist Church	Fort Worth, TX	9/15/99	Ruger P85 9mm semiautomatic pistol, unknown make and model .380 caliber semiautomatic pistol, and three 15-round large capacity ammunition magazines. Ashbrook legally acquired both weapons from federally licensed firearms dealers in 1992.	.380-caliber, 9mm Ruger P85 semiautomatic handguns	.380-caliber revolver; 9mm Ruger P85 pistol	No
108. Atlanta Day Trading	Atlanta, GA	7/29/99	-	.45-caliber Colt 1911-A1, 9mm Glock 17, .25-caliber Raven Arms MP-25 semiautomatic handguns; .22-caliber Harrington & Richardson revolver	.45-caliber Colt 1911-A1 pistol; .22-caliber Harrington & Richardson revolver; .25-caliber Raven Arms Mp-25 pistol; 9mm Glock 17 pistol	No
109. Albertson's Supermarket	Las Vegas, NV	6/3/99	-	-	12-gauge pump-action shotgun	No
110. Columbine High School	Littleton, CO	4/20/99	Savage Springfield 67H 12-gauge pump-action shotgun, Savage Stevens 311D 12-gauge sawedoff shotgun, Hi-Point 995 9mm semiautomatic rifle, INTRATEC TEC-DC9 9mm semiautomatic pistol, and thirteen 10-round magazines, one 52-, one 32-, one 28-round large capacity ammunition magazines. Harris and Klebold illegally acquired the shotguns and Hi- Point rifle through a "straw purchase" (a transaction in which a legal buyer makes a purchase for someone who cannot legally purchase the firearm). Their friend, Robyn Anderson, purchased the three firearms at the Tanner Gun Show from unlicensed sellers in December of 1998. A pizza shop employee, Mark Manes, illegally sold them the INTRATEC TEC-DC9.	9mm Intratec DC-9 semiautomatic handgun; 9mm Hi-Point 995 carbine rifle; 12-gauge sawed-off Savage Stevens 311D, 12-gauge sawed-off Savage Springfield 67H pump-action shotguns	9mm Hi-Point 995 carbine; 12-gauge sawed-off Savage Stevens 311D shotgun; 12-gauge sawed-off Savage Springfield 67H pump-action shotgun; 9mm Intratec DC-9 machine pistol	Yes ar
111. New St. John Fellowship Baptist Church	Gonzalez, LA	3/10/99	-	-	semiautomatic pistol	No
112. Thurston High School	Springfield, OR	5/21/98	GLOCK 19 9mm semiautomatic pistol, Ruger (unknown model) .22-caliber semiautomatic pistol, Ruger (unknown model) .22-caliber rifle, and a 50-round large capacity ammunition magazine. The GLOCK and rifle were legally purchased by Kinkel's father.	9mm Glock, .22-caliber Ruger semiautomatic handguns, .22-caliber Ruger rifle	9mm Glock pistol; .22-caliber Ruger pistol; .22-caliber Ruger rifle	No as

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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113. Westside Middle School	Jonesboro, AR	3/24/98	Universal M1 Carbine .30-caliber replica, Davis Industries .38-caliber two-shot derringer, Double Deuce Buddie .22-caliber two-shot derringer, Charter Arms .38-caliber revolver, Star .380-caliber pistol, FIE .380-caliber pistol, Ruger Security Six .357-caliber revolver, Ruger .44 magnum rifle, Smith & Wesson .38-caliber revolver, Remington 742 .30-06-caliber rifle, 15-round large capacity ammunition magazines, three 30-round large capacity ammunition magazines, and over 150-rounds of ammunition.	FIE 380, .380-caliber Star semiautomatic handguns; .44 Magnum Ruger, .30-06 Remington 742, .30-caliber Universal M-1 carbine replica rifles; .38-caliber Charter Arms, .357-caliber Ruger Security Six, .38-caliber Smith & Wesson revolvers; 22-caliber Double Deuce Buddie two-shot, .38-caliber Davis Industries two-shot derringers	.22-caliber Double Deuce revolver; .380-caliber Star pistol; .357-caliber Ruger Security six revolver; .44 Magnum Ruger revolver; .30-caliber Universal M-1 carbine; .38-caliber Charter Arms revolver; .38-caliber Smith & Wesson revolver; FIE 380 pistol; .30-06 Remington 742 rifle	No at
114. Connecticut Lottery	Newington, CT	3/6/98	GLOCK model unknown 9mm semiautomatic pistol equipped with a 19-round large capacity ammunition magazine. Beck had a permit for the 9mm pistol used in the shooting.	9mm semiautomatic handgun	9mm pistol	No
115. Caltrans Maintenance Yard	Orange, CA	12/18/97	Chinese-made AK-47-type 7.62mm semiautomatic assault rifle and five 30-round large capacity ammunition magazines. Torres legally purchased the rifle on April 30, 1988, from B&B Gun Sales in Orange County, CA.	7.62mm AK-47 Chinese variant semiautomatic rifle	7.62mm AK-47 Chinese variant semiautomatic rifle	Yes
116. Erie Manufacturing	Bartow, FL	12/3/97	-	-	-	No au
117. R.E. Phelon Company	Aiken, SC	9/15/97	-	9mm semiautomatic handgun	9mm pistol	No
118. News and Sentinel	Colebrook, NH	8/20/97	-	-	9mm pistol, AR-15-style rifle	Yes av
119. Fire Station	Jackson, MS	4/25/96	-	-	Mac 11 machine pistol, Tec 9 automatic pistol, .45-caliber semiautomatic handgun	No
120. Fort Lauderdale	Fort Lauderdale, FL	2/9/96	-	9mm Glock semiautomatic handgun; .32-caliber revolver	9mm Glock pistol; .32-caliber revolver	No
121. Little Chester Shoes	New York, NY	12/19/95	-	-	.9mm semiautomatic pistol	No
122. Piper Technical Center	Los Angeles, CA	7/19/95	-	-	Glock semiautomatic pistol	No aw
123. Walter Rossler Company	Corpus Christi, TX	4/3/95	-	9mm Ruger semiautomatic handgun; .32-caliber revolver	.32-caliber revolver; 9mm Ruger pistol	No
124. Puppy creek	Hoke County, NC	12/31/94	-	-	-	-
125. Air Force Base	Fairchild Base, WA	6/20/94	Chinese-made Mak-90 semiautomatic assault rifle equipped with a 75-round drum large capacity ammunition magazine. He purchased the assault rifle on June 15, 1994, five days before the shooting, and the following day purchased 80 rounds of 7.62x39mm ammunition and a 75-round drum large capacity ammunition magazine.	MAK-90 semiautomatic rifle	MAK-90 semiautomatic AK-style rifle	Yes ax
126. Chuck E. Cheese	Aurora, CO	12/14/93	-	.25-caliber semiautomatic handgun	.25-caliber pistol	No
127. Long Island Railroad	Garden City, NY	12/7/93	Ruger P89 9mm semiautomatic pistol and four 15-round large capacity ammunition magazines. Ferguson legally acquired the weapon in California at an outlet of Turner's Outdoorsman.	9mm Ruger P89 semiautomatic handgun	9mm Ruger P89 pistol	No

Appendix C

List of Firearms Used in Public Mass Shootings
1982 – 2019

Case	Location	Date	Weapon Description From			Assault Weapon? ^d
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(1)	(2)	(3)	(4)	(5)	(6)	(7)
128. Unemployment Office	Oxnard, CA	12/2/93	-	-	Rifle	-
129. Family Fitness Club	El Cajon, CA	10/14/93	-	-	12-gauge shotgun	No
130. Luigi's Restaurant	Fayetteville, NC	8/6/93	-	.22-caliber rifle; two 12-gauge shotguns	12-gauge shotgun (2); .22-caliber rifle	No ay
131. Washington County Bar	Jackson, MS	7/8/93	-	-	-	-
132. 101 California Street	San Francisco, CA	7/1/93	Two INTRATEC TEC-DC9 semiautomatic pistols Colt (unknown model) .45-caliber semiautomatic pistol, and 40-round and 50-round large capacity ammunition magazines loaded with a mix of Black Talon and standard ammunition. According to the Las Vegas Metropolitan Police Department, Ferri purchased the pistols from two stores in Las Vegas: Super Pawn and Pacific Tactical Weapons.	Two Intratec DC-9 , .45-caliber Colt semiautomatic handguns	.45-caliber Colt pistol; Intratec DC-9 machine pistols	Yes az
133. Card club	Paso Robles, CA	11/8/92	-	-	-	No ba
134. Watkins Glen	Watkins Glen, NY	10/15/92	-	9mm Llama semiautomatic handgun	9mm Llama pistol	No
135. Lindhurst High School	Olivehurst, CA	5/1/92	-	.22-caliber sawed-off rifle; 12-gauge pump-action shotgun	.22-caliber sawed-off rifle; 12-gauge pump-action shotgun	No bb
136. Phoenix	Phoenix, AZ	3/15/92	-	-	-	-
137. Royal Oak Postal	Royal Oak, MI	11/14/91	-	.22-caliber Ruger sawed-off semiautomatic rifle	.22-caliber Ruger sawed-off semiautomatic rifle	No bc
138. Restaurant	Harrodsburg, KY	11/10/91	-	-	.357 Magnum	No
139. University of Iowa	Iowa City, IA	11/1/91	-	.38-caliber Taurus revolver	.38-caliber Taurus revolver	No
140. Luby's Cafeteria	Killeen, TX	10/16/91	GLOCK 17 9mm semiautomatic pistol, Ruger P89 semiautomatic pistol, and 17-round and 15- round large capacity ammunition magazines. Hennard legally purchased the weapons from Mike's Gun Shop in Henderson, NV, in February and March of 1991.	9mm Glock 17, 9mm Ruger P89 semiautomatic handguns	9mm Glock 17 pistol; 9mm Ruger P89 pistol	No
141. Post office	Ridgewood, NJ	10/10/91	-	-	9mm Uzi machine pistol , .22-caliber machine gun	Yes
142. GMAC	Jacksonville, FL	6/18/90	Universal M1 .30-caliber semiautomatic assault rifle, unknown make and model .38-caliber revolver, and a 30-round large capacity ammunition magazine.	.30-caliber Universal M1 carbine rifle; .38-caliber revolver	.30-caliber Universal M1 carbine; .38-caliber revolver	No bd
143. Standard Gravure Corporation	Louisville, KY	9/14/89	Chinese-made AK-47-type semiautomatic assault rifle , two INTRATEC MAC-11 semiautomatic assault pistols, SIG SAUER unknown model 9mm semiautomatic pistol, unknown make and model .38-caliber revolver, and 30-round large capacity ammunition magazines. Wesbecker legally purchased the AK-47-type assault rifle from Tilford's Gun Sales in Louisville.	Two Intratec MAC-11, 9mm SIG Sauer semiautomatic handguns; AK-47 Chinese variant semiautomatic rifle ; .38-caliber revolver	9mm SIG Sauer pistol; AK-47 Chinese variant semiautomatic rifle ; Intratec MAC-11 machine pistol; .38-caliber revolver; 9mm SIG Sauer pistol	Yes

Appendix C

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1982 – 2019

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			Citizens Crime Commission ^a	Mother Jones ^b	Washington Post ^c	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
144. Stockton Schooolyard	Stockton, CA	1/17/89	Chinese-made AK-47-type semiautomatic assault rifle, Taurus unknown model 9mm semiautomatic pistol, a 75-round large capacity ammunition drum magazine, a 75-round large capacity ammunition rotary magazine, and four 35-round large capacity ammunition banana magazines. Purdy legally purchased the AK-47-type rifle at Sandy Trading Post, in Sandy, OR on August 3, 1988, and the Taurus 9mm pistol at Hunter Loan and Jewelry Co. in Stockton, CA on December 28, 1988.	9mm Taurus semiautomatic handgun; AK-47 Chinese variant semiautomatic rifle	9mm Taurus pistol; AK-47 Chinese variant semiautomatic rifle	Yes
145. Montefiore School	Chicago, IL	9/22/88	-	-	.38-caliber revolver	No
146. Old Salisbury Road	Winston-Salem, NC	7/17/88	-	-	.22-caliber rifle	No
147. ESL	Sunnyvale, CA	2/16/88	-	.380 ACP Browning, 9mm Smith & Wesson semiautomatic handguns; Ruger M-77 .22-250 bolt-action rifle with scope; Mossberg 12-gauge pump-action, 12-gauge Benelli semiautomatic shotguns; .357 Magnum Smith & Wesson, .22 Sentinel WMR revolvers	.22 Sentinel WMR revolver; 9mm Smith & Wesson pistol; Mossberg 12-gauge pump-action shotgun; Ruger M-77 .22-250 bolt-action rifle with scope; .380 AP Browning pistol; 12-gauge Benelli semiautomatic shotgun; .357 Magnum Smith & Wesson revolver;	No ^{be}
148. Shopping Centers	Palm Bay, FL	4/23/87	Strum, Ruger Mini-14 semiautomatic assault rifle equipped with a 30-round large capacity ammunition magazine, five 30-round large capacity ammunition magazines, 180 rounds of ammunition, a shotgun (unknown make and model), and a pistol (unknown make and model). Cruse ordered the assault rifle on March 21, 1987. On April 17, 1987, he purchased 100-rounds of ammunition and six 30-round large capacity ammunition magazines.	Sturm, Ruger Mini-14 semiautomatic rifle; 20-gauge Winchester pump-action shotgun; .357 Ruger Blackhawk revolver	.357 Ruger Blackhawk revolver; Ruger Mini-14 semiautomatic rifle; Sturm; 20-gauge Winchester pump-action	No ^{bf}
149. United States Postal Service	Edmond, OK	8/20/86	-	.22-caliber, two .45-caliber Colt Model 1911-A1 semiautomatic handguns	.45-caliber Colt Model 1911-A1 pistol; .45-caliber Colt Model 1911-A1 pistol; .22-caliber pistol	- ^{bg}
150. Anchor Glass Container Corporation	South Connellsville, PA	3/16/85	-	-	.38-caliber snub-nosed revolver	No
151. Other Place Lounge	Hot Springs, AR	7/24/84	-	-	.45-caliber semiautomatic pistol	No
152. San Ysidro McDonald's	San Ysidro, CA	7/18/84	-	9mm Browning P35 Hi-Power semiautomatic handgun; 9mm Israeli Military Industries Uzi Model A carbine semiautomatic rifle ; 12-gauge Winchester 1200 pump-action shotgun	9mm Israeli Military industries Uzi Model A machine pistol , 12-gauge Winchester 1200 pump-action shotgun, 9mm Browning P35 Hi-Power pistol	Yes
153. Dallas Nightclub	Dallas, TX	6/29/84	-	9mm Smith & Wesson 459 semiautomatic handgun	9mm Smith & Wesson 459 pistol	No ^{bh}
154. Alaska Mining Town	Manley Hot Springs, AK	5/17/84	-	-	.30-06-caliber Ruger single-shot rifle	No
155. College Station	Collge Station, TX	10/11/83	-	-	-	No ^{bi}

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156. Alaska Back-County	McCarthy, AK	3/1/83	-	-	.223-caliber Ruger Mini-14 semiautomatic rifle, .22-caliber pistol	No
157. Upper West Side Hotel	New York, NY	2/3/83	-	-	-	No ^{bj}
158. The Investor	Noyes Island, AK	9/6/82	-	-	.22-caliber	No
159. Welding Shop	Miami, FL	8/20/82	-	Mossberg 500 Persuader pump-action shotgun with pistol grip	12-gauge shotgun	No
160. Western Transfer Co.	Grand Prairie, TX	8/9/82	-	-	.38-caliber revolver, .25-caliber semiautomatic pistol, carbine rifle	No
161. Russian Jack Springs Park	Anchorage, AK	5/3/82	-	-	.38-caliber pistol	No

Notes and Sources:

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^a Description of weapons from "Citizens Crime Commission of New York City, Mass Shooting Incidents in America (1984-2012)," accessed June 1, 2017.

^b Description of weapons from Mother Jones ("US Mass Shootings, 1982-2017: Data from Mother Jones' Investigation," updated December 11, 2019).

^c Description of weapons from Washington Post ("The Terrible Numbers That Grow With Each Mass Shooting," updated December 18, 2019).

^d California Penal Code sections 30510 and 30515 and California Code of Regulations, title 11, section 5499.

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
ⁿ						"Washington shooting victims ranged in age from 16 to 95, coroners say," <i>CNN</i> , September 27, 2016; Brown, Jason, "What You Should Know About .22 Rimfire," <i>NRA</i> , August 16, 2017; Ruger Homepage, https://ruger.com/ , accessed October 24, 2018.
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Firearms

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
15
16

17 **JAMES MILLER, et al.,**
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19 Plaintiffs,
20
21 **v.**
22 **CALIFORNIA ATTORNEY**
GENERAL XAVIER BECERRA,
et al.,
23 Defendants.
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27
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19-cv-1537 BEN-JLB

**DECLARATION OF
CHRISTOPHER B. COLWELL,
M.D., IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF CHRISTOPHER B. COLWELL, M.D.

I, Christopher B. Colwell, declare:

1. I am the Chief of Emergency Medicine at Zuckerberg San Francisco General Hospital and Trauma Center and Professor and Vice Chair in the Department of Emergency Medicine at the University of California at San Francisco School of Medicine. I am over the age of 18, and I make this declaration in support of Defendants' opposition to Plaintiffs' motion for a preliminary injunction. This declaration is based on my own personal knowledge and experience, and if called as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

BACKGROUND AND QUALIFICATIONS

2. I am currently the Chief of Emergency Medicine at Zuckerberg San Francisco General Hospital and Trauma Center and Professor and Vice Chair in the Department of Emergency Medicine at the University of California at San Francisco School of Medicine. I was previously the Chief of Emergency Medicine at Denver Health Medical Center and Professor and Executive Vice Chair in the Department of Emergency Medicine at the University of Colorado School of Medicine. I received my Emergency Medicine training at Denver General Hospital in the Denver Affiliated Residency in Emergency Medicine and am board certified by American Board of Emergency Medicine (ABEM) in both Emergency Medicine and Emergency Medical Service (EMS). I am licensed to practice medicine in the states of California and Colorado.

3. I have over 25 years of experience treating gunshot wound victims in the Emergency Department at large urban level I trauma centers and in that time have treated over a thousand patients with gunshot wounds. I am qualified to offer opinions as to the physiologic trauma caused by gunshot wounds and other penetrating injuries.

1 weapons. In my experience, assault weapons tend to cause far greater damage to
2 the muscles, bones, soft tissue, and vital organs. They are too often shredded
3 beyond repair.

4 9. My first-hand experience treating victims of gunshot wounds includes
5 being the physician at the scene of the Columbine High School shooting on
6 April 20, 1999, in which a TEC-DC 9 pistol and a Hi-Point 995 rifle were used, and
7 as an Emergency Department physician treating victims of the Aurora Theater
8 shooting on July 20, 2012, in which an AR-15 rifle was used. I have treated many
9 other patients that have been both victims and shooters of assault weapons,
10 including AK-47s and AR-15s, and have also treated many victims and shooters of
11 non-assault weapons and other weapons. While significant injury can certainly
12 result from non-assault weapons, my experience has been that individuals who have
13 been shot by assault weapons tend to have more wounds and injuries that are far
14 more extensive. These weapons cause significantly more damage and have resulted
15 in higher morbidity and mortality than other weapons.

16 10. There is no doubt in my mind that victims of assault weapons are at far
17 greater risk of both immediate and long-term complications. These complications
18 include higher amputation rates and higher infection rates. A vivid example was a
19 victim of a shooting from a Glock handgun who presented to our Emergency
20 Department with an elbow wound. We were able to treat this wound and release
21 the patient from the Emergency Department. Just three months earlier, I had seen a
22 patient shot in the exact same spot with an AK-47 and the arm needed to be
23 amputated just below the shoulder. This is just one example of the additional
24 damage and destruction assault weapons cause, which I have witnessed in the
25 course of treating trauma patients. In each of these examples, law enforcement
26 informed me of the weapon used in the shooting.

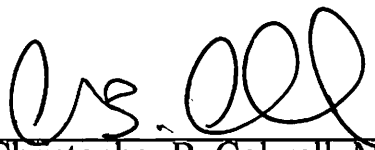
27 11. Assault weapons, especially when equipped with large capacity
28 magazines that can hold 30, 50, or even 100 rounds of ammunition, can fire more

1 shots without reloading, causing more injuries per victim (and thus more
2 complications), and many of the most devastating injuries I have managed in my
3 over 25 years of experience treating gunshot wound victims.

4 12. It is my opinion that while all weapons pose risk, assault weapons,
5 especially when equipped with large capacity magazines, pose a far greater risk to
6 the public from a medical standpoint than non-assault firearms.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on January 9, 2020 at San Francisco, California.

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12 Christopher B. Colwell, M.D.
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Curriculum Vitae
Christopher Beall Colwell, M.D

Current Position:

**Chief, Department of Emergency Medicine
Zuckerberg San Francisco General Hospital and Trauma Center
Professor and Vice Chair, Department of Emergency Medicine
UCSF School of Medicine**

Work Address:

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Department of Emergency Medicine
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Board Certification:

- 1) American Board of Emergency Medicine 1997
Re-certification 2007, 2017
- 2) American Board of Emergency Medicine – Emergency Medical Services 2015

NPI number – 1629092788
California license – G142756 (active)
Colorado license – 34341 (not active)
Michigan license – 4301059401 (not active)

Education:

**Undergraduate: University of Michigan
Ann Arbor, Michigan
Bachelor of Science Degree, 1988**

**Medical School: Dartmouth Medical School
Hanover, New Hampshire
Medical Doctorate, 1992**

Internship: St. Joseph Mercy Hospital/University of Michigan
Ann Arbor, Michigan
Transitional Medicine, 1993

Residency: Denver Affiliated Residency in Emergency Medicine
Denver, Colorado, 1993-1996
Chief Resident 1995-1996

Academic appointments:

1. **Professor and Vice Chair**
Department of Emergency Medicine
University of California at San Francisco School of Medicine
2016 - Present
2. **Professor of Emergency Medicine**
Department of Emergency Medicine
University of Colorado School of Medicine
2012-2016
3. **Executive Vice Chair, Department of Emergency Medicine, 2010 - 2016**
University of Colorado School of Medicine
2010-2016
4. **Associate Professor of Emergency Medicine**
Department of Emergency Medicine
University of Colorado School of Medicine
2010-2012
5. **Associate Professor of Emergency Medicine**
Division of Emergency Medicine, Department of Surgery
University of Colorado Health Sciences Center
2004-2009
6. **Assistant Professor of Emergency Medicine**
Division of Emergency Medicine, Department of Surgery
University of Colorado Health Sciences Center
Denver, Colorado
1998-2004
7. **Assistant Professor of Emergency Medicine**

**Department of Emergency Medicine, University of Michigan School of
Medicine
Ann Arbor, Michigan
1996-1998**

Clinical appointments:

- 1. Chief of Emergency Medicine, 2016-present
Department of Emergency Medicine
Zuckerberg San Francisco General Hospital and Trauma Center
San Francisco, California**
- 2. Director of Emergency Medicine, 2010 – 2016
Interim Director of the Department of Emergency Medicine, 2009-2010
Associate Director, 2000-2009
Attending Physician, 1998-2016
Department of Emergency Medicine
Denver Health
Denver, Colorado**
- 3. Program Director, EMS Fellowship
2000-2012**
- 4. Medical Director, Denver Paramedic Division
2000-2012**
- 5. Medical Director, Denver Fire Department
2000-2010**
- 6. Associate Director, Denver Paramedic Division
1998-2000**
- 7. Senior Associate Director, Denver Health Residency in Emergency Medicine
2009 - 2016**
- 8. Attending Physician, 1996-1998
St. Joseph Mercy Hospital/University of Michigan
Ann Arbor, Michigan**

**Honors and Awards: 2017-2018 Quarterly Resident Bedside Teaching Award
UCSF Department of Emergency Medicine**

**Outstanding Contributions - Best Authors in Adult
Emergency Medicine
UpToDate – Wolters Kluwer
March, 2017**

**2016 Career Service Award
Denver Health and Hospital Association
Medical Staff Awards
September 21st, 2016**

**The Peter Rosen Leadership Award
Presented by the 2016 Emergency Medicine Residency
at Denver Health for Outstanding Departmental
Leadership
June 27th, 2016**

**2016 Financial Vitality Pillar Award
For largest increase in charges and revenue while
maintaining same cost
June 9th, 2016**

**Meritorious Service Award
Presented by the Colorado Chapter of the American
College of Emergency Physicians for Achievements that
have Enhanced Colorado's Health Care System and the
Profession of Emergency Medicine in Colorado.
January 20th, 2015**

**2015 Patient Safety and Quality Pillar Award
For meticulous, high-quality, and thoughtful design and
implementation of Denver Health's Ebola Preparedness
Plan
June, 2015**

**The Corey M. Slovis Award for Excellence in
Education. U.S. Metropolitan Municipalities EMS
Medical Directors Consortium, February, 2015**

**Positively Collaborative Award for outstanding
collaboration towards the improvement of Colorado's
trauma system. Trauma Program, Colorado
Department of Public Health and Environment,
January, 2012**

**The Vincent J. Markovchick Program Director's
Award 2011**

**Distinctive Service Award – Denver Paramedic Division
2010**

**Chief Executive Officer Special Commendation Award
for expert medical leadership of Denver's 911 system,
2009**

**Mayor's Award of Appreciation for assistance and aid
to Hurricane Katrina evacuees. 2005**

**Ernest E. Moore Award for Outstanding Contributions
in Trauma Care, 2000**

Outstanding Senior Resident, 1996

**Chief Resident, Emergency Medicine Residency, 1995-
1996**

Membership in professional organizations:

1. **American College of Emergency Physicians (ACEP), 1994-present**
 - a. **Fellow, 1999-present**
 - b. **Colorado ACEP, 1993-1996, 1998-present**
 - c. **Michigan ACEP, 1996-1998**
2. **American Medical Association (AMA), 1993-2000, 2006-present**
3. **National Association of EMS Physicians (NAEMSP), 2002-present**
4. **Society for Academic Emergency Medicine (SAEM), 1995-2000, 2008-present**
5. **Emergency Medicine Residents Association (EMRA), 1992-1997**

Major Committee, Teaching, and Service Responsibilities:

1. **Section Editor, Traumatic Emergencies. Corependium Emergency Medicine
Textbook**
2. **UCSF Ad Hoc Committee for Faculty Misconduct Investigations, Standing
Panel. 2019 – 2022**
3. **San Francisco Pride Parade - Medical Coverage (with San Francisco Fire
Department). June 30th, 2019**
4. **Medical Executive Committee, Zuckerberg San Francisco General Hospital
and Trauma Center. 2016-present**

5. ZSFG CPG Board of Directors. 2016-present
6. UCSF Department of Emergency Medicine Incentive Review Committee. 2016 – present
7. Zuckerberg San Francisco General Hospital and Trauma Center Trauma Peer Review Committee. 2016-present
8. Board of Directors, American College of Emergency Physicians – Colorado Chapter, 2007-2011
9. Conference Director, Annual Rocky Mountain Conference in Trauma and Emergency Medicine, 2003 – 2016
10. American Board of Emergency Medicine (ABEM) Oral Board Examiner, 2011 - present
11. Course Director, Introduction to Traumatic Emergencies, (SURG 6623) University of Colorado School of Medicine, 1999
 - a. A course for second year medical students that introduces the student to selected traumatic emergencies and their management
12. Course Director, Prehospital Medicine (SURG 6626), University of Colorado at Denver School of Medicine, 2005-2016
 - a. A course for first and second year medical students that introduces them to prehospital medicine and includes clinical time riding on an ambulance
13. Course Director, Flight Medicine (SURG 6628), University of Colorado at Denver School of Medicine, 2009-2016
 - a. A course for second year medical students (SURG 6626 is a pre-requisite) that introduces the student to flight medicine and includes clinical time riding in a helicopter as well as fixed wing airplane transport
14. Instructor, Introduction to Traumatic Emergencies, (SURG 6623) University of Colorado School of Medicine, 1999-2016
15. Lecturer, Injury Epidemiology and Control (PRMD 6637), University of Colorado School of Medicine, 2003
16. Instructor, Emergency Medicine at Denver Health Medical Center (SURG 8005), University of Colorado School of Medicine, 1998-2016
17. Instructor, Integrated Clinicians Course (ICC) 8005: Preparing for Internship: Reading and Understanding EKGs
18. Instructor, Integrated Clinicians Course (ICC) IDPT 7003: Management of Trauma, University of Colorado School of Medicine, 2011
19. Instructor, Integrated Clinicians Course (ICC) IDPT 7004: Management of Trauma, University of Colorado School of Medicine, 2010. Lecturer and small group leader
20. Instructor, Integrated Clinicians Course (ICC) IDPT 7004: Management of Trauma, University of Colorado School of Medicine, 2009. Lecturer and small group leader
21. Member, Medical Staff Executive Committee, 2009-present
22. Member, Denver Health Executive Committee for Patient Safety and Quality, 2006-2016

23. Council Member, Colorado's Mile High Regional Emergency and Trauma Advisory Council (RETAC), Denver County appointed representative, 2000-2016
24. Committee chair, Destination and Diversion committee, Mile High RETAC 2002-2016
25. Member, State EMS Formulary Task Force, 2006 – 2009
26. Member, Pediatric Trauma Committee, 2006-present
27. Member, Rocky Mountain Center for Medical Response (RMC MR), 2002-2016
28. Member, Colorado State Advisory Council on Emergency Medical Services, 1998-2000
29. Ute Mountain Ute EMS Program medical director, 1994-1996
30. Steering Committee member, Denver Health Residency in Emergency Medicine, 1998-2016
31. Denver Health Residency in Emergency Medicine Compliance Committee, 2006-2014
32. Pharmacy and Therapeutics Committee member, Denver Health Medical Center, 1998-2006
33. EMS Education committee member, Denver Health Medical Center, 1998-2016
34. Safety Committee member, Denver Health Medical Center, 1998-2001
35. Residency Advisory Committee, Denver Health Medical Center Residency in Emergency Medicine, 1998-2016
36. Moderator, Case Presentations, Rocky Mountain Critical Care Transport Conference, May, 2003
37. Instructor, Difficult Airway Lab, Rocky Mountain Critical Care Transport Conference, May, 2003
38. Trauma Center Site Surveyor, State of Florida Department of Health and Rehabilitative Services, Office of Emergency Medical Services, 2003-present
 - a. Trauma site review – 10/23 – 10/25, 2019
39. Member, Denver EMS Council, 1998-2016
40. Member, Denver Metro Physician Advisors, 1999-2016
41. Medical Expert and Faculty, Boulder Trial Academy, International Association of Defense Counsel, 1998-2002
42. Member, Medical Advisory Group (MAG), to the Colorado State EMS Director, 2003-2008
43. Transfusion Committee member, St. Joseph Mercy Hospital, Ann Arbor, Michigan. 1996-1998

Editorial Positions

1. Section Editor, Trauma, UpToDate, 2009 - present
2. Section Editor, Abstracts
The Journal of Emergency Medicine, 1999-2002
3. Review Editor, The Journal of Emergency Medicine, 1999-2008
4. Review Editor, Western Journal of Emergency Medicine, 2008 - present
5. Manuscript reviewer, Academic Emergency Medicine, 2003 – present
6. Manuscript reviewer, Critical Care, 2008-present
7. Manuscript reviewer, Patient Safety in Surgery, 2009-present
8. Guest Editor, EM International, Prehospital Care

Publications:

Peer Reviewed Journal Articles

1. Shapiro M, Dechert, **Colwell C**, Bartlett R, Rodriguez: Geriatric Trauma: Aggressive Intensive Care Management is Justified. American Surgeon 1994;60(9):695-8
2. **Colwell C**, Pons PT, Blanchet J, Mangino C: Claims Against a Paramedic Ambulance Service: A Ten Year Experience. J Emerg Med 1999, 17(6):999-1002
3. Apfelbaum J, **Colwell C**, Roe E: Precipitous Breech Delivery of Twins: A Case Report. Prehospital Emerg Care 2000; 4(1):78-81
4. Gnadinger CA, **Colwell C**, Knaut AL: Scuba Diving-Induced Pulmonary Edema in a Swimming Pool. J Emerg Med 2001; 21(4):419-421
5. Houry D, **Colwell C**, Ott C: Abdominal Pain in a Child after Blunt Abdominal Trauma: An Unusual Injury. J Emerg Med 2001; 21(3):239-241
6. Barton E, Ramos J, **Colwell C**, Benson J, Bailey J, Dunn W: Intranasal Administration of Naloxone by Paramedics. Prehosp Emerg Care 2002; 6:54-8
7. **Colwell C**, Pons PT, Pi R: Complaints Against an EMS System. J Emerg Med 2003;25(4):403-408
8. **Colwell C**, McVaney K, Haukoos J, Wiebe D, Gravitz C, Dunn W, Bryan T: An Evaluation of Out-of-Hospital Advanced Airway Management in an Urban Setting. Acad Emerg Med 2005; 12(5):417-22
9. McVaney KE, Macht M, **Colwell CB**, Pons PT: Treatment of Suspected Cardiac Ischemia with Aspirin by Paramedics in an Urban Emergency Medical Services System. Prehospital Emerg Care 2005, 9(3):282-284
10. Barton E, **Colwell CB**, Wolfe TR, Fosnocht D, Gravitz C, Bryan T, Dunn W, Benson J, Bailey J: The Efficacy of Intranasal Naloxone as a Needleless Alternative for Treatment of Opiate Overdose in the Prehospital Setting. J Emerg Med 2005;29(3):265-71
11. Levine SD, **Colwell CB**, Pons PT, Gravitz C, Haukoos JS, McVaney KE: How Well do Paramedics Predict Admission to the Hospital? A Prospective Study. J Emerg Med 2006;31(1):1-5

12. **Colwell CB**: Case Studies in Infectious Disease: Travel-Related Infections. Emerg Med 2006;38(10):35-43
13. Bonnett CJ, Peery BN, Cantril SV, Pons PT, Haukoos JS, McVaney KE, **Colwell CB**: Surge capacity: a proposed conceptual framework. Am J Emerg Med 2007;25:297-306.
14. **Colwell C**. Initial evaluation and management of shock in adult trauma. In: UpToDate, Basow DS (Ed), UpToDate, Waltham, MA, 2007 - present
15. Bonnett CJ, **Colwell CB**, Schock T, McVaney KE, Depass C: Task Force St. Bernard: Operational Issues and Medical Management of a National Guard Disaster Response. Prehospital and Disaster Medicine 2007;22(5):440-447
16. **Colwell CB**: Heat Illness. Emerg Med 2008; 40(6): 33-39
17. **Colwell CB**, Cusick JC, Hawkes AP and the Denver Metro Airway Study Group: A prospective study of prehospital airway management in an urban EMS system. Prehosp Emerg Care 2009; 13:304-310
18. **Colwell CB**, Mehler P, Harper J, Cassell L, Vazquez J, Sabel A: Measuring quality in the prehospital care of chest pain patients. Prehospital Emerg Care 2009;13:237-240
19. Kashuk JL, Halperin P, Caspi G, **Colwell CB**, Moore EE: Bomb explosions in acts of terrorism: Evil creativity challenges our trauma systems. J Am Coll Surg 2009; 209(1):134-140
20. Stone SC, Abbott J, McClung CD, **Colwell CB**, Eckstein M, Lowenstein SR: Paramedic knowledge, attitudes, and training in end-of-life care. Prehospital Disaster Medicine 24(6):529-34, Nov-Dec 2009.
21. Gaither JB, Matheson J, Eberhardt A, **Colwell CB**: Tongue engorgement associated with prolonged use of the King-LT laryngeal tube device. Ann Emerg Med, 2009. Ann Emerg Med 2010; 55(4):367-9.
22. Bookman SJ, Eberhardt AM, Gaither JB, **Colwell CB**: Hospital Group Preparation for the 2008 Democratic National Convention. Journal of Homeland Security and Emergency Management 2010; Vol. 7: Iss. 1, Article 16.
23. Haukoos JS, Witt G, Gravitz C, Dean J, Jackson D, Candlin T, Vellman P, Riccio J, Heard K, Kazatomi T, Luyten D, Pineda G, Gunther J, Biloft J, **Colwell CB**: Out-of-hospital cardiac arrest in Denver, Colorado: Epidemiology and outcomes. Acad Emerg Med 2010; 17(4):391-8.
24. Haukoos JS, Byyny RL, Erickson C, Paulson S, Hopkins E, Sasson C, Bender B, Gravitz C, Vogel JA, **Colwell CB**, Moore EE. Validation and refinement of a rule to predict emergency intervention in adult trauma patients. Ann Emerg Med 2011;58:164-171
25. **Colwell CB**, Eberhardt A. Less Lethal Force. Emergency Medicine Reports 2011, 32(18):1-12
26. Soriya G, McVaney KE, Liao MM, Haukoos JS, Byyny RL, Gravitz C, **Colwell CB**. Safety of prehospital intravenous fentanyl for adult trauma patients. J Trauma Acute Care Surg 2012;72(3):755-59
27. Gudnik MR, Sasson C, Rea TD, Sayre MR, Zhang J, Bobrow BJ, Spaite DW, McNally B, Denninghoff K, Stolz U, Levy M, Barger J, Dunford JV, Sporer K, Salvucci A, Ross D, **Colwell CB**, Turnbull D, Rosenbaum R, Schrank K,

- Waterman M, Dukes R, Lewis M, Fowler R, Lloyd J, Yancey A, Grubbs E, Lloyd J, Morris J, Boyle S, Johnson T, Wizner C, White M, Braithwaite S, Dyer S, Setnik G, Hassett B, Santor J, Swor B, Chassee T, Lick C, Parrish M, Radde D, Mahoney B, Todd D, Salomone J, Ossman E, Myers B, Garvey L, Camerson J, Slattery D, Ryan J, McMullan J, Keseg D, Leaming J, Sherwood BK, Luther J, Slovis C, Hinchey P, Harrington M, Griswell J, Beeson J, Persse D, Gamber M, Ornato J. Increasing hospital volume is not associated with improved survival in out of hospital cardiac arrest of cardiac etiology. Resuscitation 2012; 83(7):862-8
28. Mascolo M, Trent S, **Colwell CB**, Mehler PS. What the Emergency Department needs to know when caring for your patients with eating disorders. Int J Eat Disord 2012;45(8):977-81
 29. **Colwell CB**, Bookman S, Johnston J, Roodberg K, Eberhardt AM, McVane KE, Kashuk J, Moore EE. Medical Preparation for the 2008 Democratic National Convention. J Trauma Acute Care Surg 2012 Dec;73(6):1624-8
 30. Trent SA, Moreira ME, **Colwell CB**, Mehler P. ED management of patients with eating disorders. Am J Emerg Med 2013 May;31(5):859-65
 31. French AJ, **Colwell CB**. Atlas of Emergency Ultrasound. J Trauma Acute Care Surg 2013;75:919.
 32. Cleveland N, **Colwell C**, Douglass E, Hopkins E, Haukoos JS. Motor Vehicle Crash Severity Estimations by Physicians and Prehospital Personnel. Prehosp Emerg Care 2014;18(3):402-7
 33. Macht M, Mull AC, McVane KE, Caruso EH, Johnston JB, Gaither JB, Shupp AM, Marquez KD, Haukoos JS, **Colwell CB**. Comparison of Droperidol and Haloperidol for use by paramedics: Assessment of safety and effectiveness. Prehosp Emerg Care 2014;18(3):375-80
 34. Nassel AF, Root ED, Haukoos JS, McVane K, **Colwell C**, Robinson J, Eigel B, Magid DJ, Sasson C. Multiple cluster analysis for the identification of high-risk census tracts for out-of-hospital cardiac arrest (OHCA) in Denver, Colorado. Resuscitation 2014;85:1667-73
 35. Vogel JA, Seleno N, Hopkins E, **Colwell CB**, Gravitz C, Haukoos JS. Denver Emergency Department Trauma Organ Failure Score outperforms traditional methods of risk stratification in trauma. Am J Emerg Med 2015;33(10):1440-4
 36. Vogel JA, Newgard CD, Holmes JF, Diercks DB, Arens AM, Boatright DH, Bueso A, Gaona SD, Gee KZ, Nelson A, Voros JJ, Moore EE, **Colwell CB**, Haukoos JS; Western Emergency Services Translational Research Network. Validation of the Denver Emergency Department Trauma Organ Failure Score to Predict Post-Injury Multiple Organ Failure. J Am Coll Surg 2016;222(1):73-82
 37. Joseph D, Vogel JA, Smith CS, Barrett W, Bryskiewicz G, Eberhardt A, Edwards D, Rappaport L, **Colwell CB**, McVane KE. Alcohol as a Factor in 911 Calls in Denver. Prehosp Emerg Care 2018, 22(4):427-35
 38. Hsia RY, Huang D, Mann NC, **Colwell C**, Mercer MP, Dai M, Niedzwiecki MJ. A US National Study of the Association Between Income and Ambulance

Response Time in Cardiac Arrest. JAMA Network Open 2018;1(7):e185202.
doi:10.1001/jamanetworkopen.2018.5202

Invited Articles, Book Chapters, and Editorials

1. **Colwell C**, Harken A: Cardiac Arrhythmias. In: Markovchick V, Pons P(eds) Emergency Medicine Secrets. Hanley & Belfus, Inc., Philadelphia, PA; 2nd Edition, 1999, pp. 119-123
2. Murphy P, **Colwell C**: Prehospital Management of Epiglottitis. EMS 2000; 29(1):41-9
3. Murphy P, **Colwell C**: Prehospital Management of Neck Trauma. EMS 2000; 29(5):53-71
4. Murphy P, **Colwell C**: Heatwave: Prehospital Management of Heat Related Conditions. EMS 2000; 29(6):33-49
5. Murphy P, **Colwell C**: Prehospital Management of Diabetes. EMS 2000; 29(10):78-85
6. Murphy P, **Colwell C**, Bryan T: Noncardiac Chest Pain. EMS 2001; 30(4):66-71
7. Murphy P, **Colwell C**: Communication Breakdown: When Medic and Medical Control Don't Agree. Cover Story, EMS 2001 30(5):61-2
8. Murphy P, **Colwell C**, Linder G: Assessment Clues. EMS 2001; 30(7):45-8
9. **Colwell C**, Murphy P, Bryan T: Mechanism of Injury: An Overview Cover Story, EMS 2003; 32(5):52-64
10. **Colwell C**, Harken A: Cardiac Arrhythmias. In: Markovchick V, Pons P(eds) Emergency Medicine Secrets. Hanley & Belfus, Inc., Philadelphia, PA; 3rd Edition, 2003, pp. 140-143
11. Kendall J, **Colwell C**: Pericarditis and Myocarditis In: Markovchick V, Pons P (eds) Emergency Medicine Secrets. Hanley & Belfus, Inc., Philadelphia, PA; 3rd Edition, 2003, pp. 149-154
12. **Colwell CB**, Murphy P, Bryan T. Prehospital Management of the Pregnant Patient. EMS 2004; 33(3):59-67.
13. **Colwell CB**, Murphy P, Bryan T. Pulseless Electrical Activity. EMS 2004; 33(9):63-8.
14. **Colwell CB**, Murphy P, Bryan T, Nelson S. Psychological Disorders: A General Overview. EMS 2004;33(11):74-83.
15. **Colwell C**: Traumatic Shock In: Harwood-Nuss A, Wolfson A (eds) The Clinical Practice of Emergency Medicine. Lippincott Williams & Wilkins, Philadelphia, PA; 4th Edition, 2005; 907-12.
16. **Colwell C**, Murphy P, Bryan T. Pediatric Potpourri: An Overview of Select Pediatric Conditions. EMS 2005;34(7):50-58
17. **Colwell C**, Murphy P, Bryan T. Uncompleted Suicide Attempts. EMS 2005;34(11):73-86
18. Murphy P, **Colwell CB**, Pineda G, Bryan T: Breaking Down Barriers: How EMS providers can communicate with autistic patients. EMS 2006;35(4):84-89

19. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Traumatic Amputations*. EMS 2006; 35(6):90-96
20. **Colwell CB**, Murphy P, Bryan T: *Geriatric Trauma*. EMS 2006;35(9):135-140
21. **Colwell CB**: *Cardiac Dysrhythmias, Pacemakers, and Implantable Defibrillators* In: Markovchick V, Pons P (eds) Emergency Medicine Secrets. Mosby Elsevier, Philadelphia, PA; 4th Edition, 2006: 194-204
22. Kendall JL, **Colwell CB**: *Pericarditis and Myocarditis* In: Markovchick V, Pons P (eds) Emergency Medicine Secrets. Mosby Elsevier, Philadelphia, PA; 4th Edition, 2006: 213-218
23. **Colwell CB**: *Disasters* In: Chapleau W, Pons P (eds) Emergency Medical Technician. Mosby JEMS Elsevier, St. Louis, MO, 2007:708-725
24. **Colwell CB**: *Hyperkalemia* In: Schaider J, Hayden SR, Wolfe R, Barkin RM, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Consult Lippincott Williams & Wilkins, Philadelphia, PA; 3rd Edition, 2007: 550-551
25. **Colwell CB**: *High Altitude Illness* In: Schaider J, Hayden SR, Wolfe R, Barkin RM, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Consult Lippincott Williams & Wilkins, Philadelphia, PA; 3rd Edition, 2007:522-523
26. **Colwell CB**: *Dialysis Complications* In: Schaider J, Hayden SR, Wolfe R, Barkin RM, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Consult Lippincott Williams & Wilkins, Philadelphia, PA; 3rd Edition, 2007:310-311
27. **Colwell CB**: *Gastroenterology* In: Chapleau W, Burba AC, Pons PT, Page D (eds): The Paramedic McGraw-Hill, New York, NY; 2008:839-861
28. **Colwell CB**: *Lightning and Electrical Injuries* In: Adams JG (Ed): Emergency Medicine Elsevier, Philadelphia, PA, 2008;131:1451
29. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Cerebral hemorrhage. What EMS providers need to know about cerebral anatomy and common forms of cerebral hemorrhage*. EMS 2009; 38(5):46-55
30. **Colwell CB**, Johnston J, Schimpf B, Nieberlein D, Petre B, Bookman S, Robinson J, Jackamore S, Gaither J, Eberhardt A, Benson J, Crowl D. *The response and lessons learned from the crash at Denver International Airport*. JEMS 2009; 34(9):36-45.
31. Murphy P, **Colwell CB**, Pineda G, Bryan T. *Shortness of breath: A review of select conditions*. EMS 2009, 38(7):51-63.
32. **Colwell CB**, Moore EE: *Traumatic Shock* In: Wolfson AB (ed): Harwood-Nuss' Clinical Practice of Emergency Medicine Lippincott Williams & Wilkins, Philadelphia, PA, 5th Edition, 2009:142-148
33. **Colwell CB**, Markovchick V: *Radiation Injuries* In: Marx JA, Hockberger RS, Walls RM (eds): Rosen's Emergency Medicine: Concepts and Clinical Practice Mosby Elsevier Philadelphia, PA 7th Edition, 2009:1933-1941
34. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Burning issues: By understanding the pathophysiology of burns, providers can give patients their best chance at good outcomes*. EMS 2009, 38(10):83-90.
35. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Abdominal Pain: A review of select conditions*. EMS 2010, 39(1):68-74

36. Murphy P, **Colwell CB**, Pineda G, Bryan T: *A Shocking Call: Prehospital assessment and management of electrical injuries and lightning strikes*. EMS 2010, 39(2):46-53
37. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Shootings: What EMS providers need to know: the assessment and treatment of victims of gunshot wounds*. EMS 2010, 39(4):37-45
38. **Colwell CB**: *Managing the Acutely Agitated Patient*. EMS Innovations 2010 EMS 2010, 39(7):I-8-I-9
39. Soriya G, **Colwell CB**: *Basic Life Support*. In: Moore EE (ed): Encyclopedia of Intensive Care Medicine Springer, 1st Edition, 2010
40. Soriya G, **Colwell CB**: *Emergency Medical Services* In: Moore EE (ed): Encyclopedia of Intensive Care Medicine Springer, 1st Edition, 2010
41. Mull A, **Colwell CB**: *Prehospital Care* In: Moore EE (ed): Encyclopedia of Intensive Care Medicine Springer, 1st Edition, 2010
42. Murphy P, **Colwell CB**, Pineda G, Bryan T: *Hemochromatosis*. EMS 2010; 39(10):53-57
43. **Colwell CB**: *Hyperkalemia* In: Schaidler JJ, Barkin RM, Hayden SR, Wolfe RE, Barkin AZ, Shayne P, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Medicine Consult Lippincott Williams & Wilkins, a Wolters Kluwer, PA 4th Edition, 2011: 552-553
44. **Colwell CB**: *High Altitude Illness* In: Schaidler JJ, Barkin RM, Hayden SR, Wolfe RE, Barkin AZ, Shayne P, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Medicine Consult Lippincott Williams & Wilkins, Wolters Kluwer, PA 4th Edition, 2011: 524-525
45. **Colwell CB**: *Dialysis Complications* In: Schaidler JJ, Barkin RM, Hayden SR, Wolfe RE, Barkin AZ, Shayne P, Rosen P (eds): Rosen and Barkin's 5-Minute Emergency Medicine Consult Lippincott Williams & Wilkins, a Wolters Kluwer, PA 4th Edition, 2011: 310-311
46. **Colwell CB**, Mull AC: *Cardiac Dysrhythmias, Pacemakers, and Implantable Defibrillators*. In: Markovchick VJ, Pons PT, Bakes KM (eds): Emergency Medicine Secrets Elsevier Mosby, St. Louis MO 5th Edition, 2011:208-218
47. Kendall JL, **Colwell CB**: *Pericarditis and Myocarditis* In: Markovchick VJ, Pons PT, Bakes KM (eds): Emergency Medicine Secrets Elsevier Mosby, St. Louis MO 5th Edition, 2011:229-234
48. **Colwell CB**, Soriya G: *Heat Illness* In: Markovchick VJ, Pons PT, Bakes KM (eds): Emergency Medicine Secrets Elsevier Mosby, St. Louis MO 5th Edition, 2011:407-410
49. Murphy P, **Colwell CB**, Pineda G: *Smoke Inhalation*. EMS World 2011; May issue
50. Eberhardt A, **Colwell CB**: *Prehospital Care*. In: Legome E, Shockley LW (eds): Trauma: A Comprehensive Emergency Medicine Approach Cambridge University Press, New York, 2011:653-662
51. Crowl D, **Colwell CB**, Mettera CJ: *Double trouble: Don't get fooled when assessing the pregnant trauma patient*. JEMS 2011; Sept:52-59

52. Mehler PS, **Colwell CB**, Stahel PF: *A structured approach to improving patient safety: Lessons from a public safety-net system*. Patient Safety in Surgery 2011; 5:32 (1 December, 2011)
53. Murphy P, **Colwell CB**, Pineda G: *Understanding the Trauma Triad of Death*. EMS World 2012, 41(2):44-51
54. Thomas SH, Colwell CB, Deslandes J, Dyer S, Goodloe JM. Prehospital Care. Emerg Med International 2012, Article ID 965480
55. **Colwell CB**. *On-Line Medical Direction*. In: Pons PT, Markovchick VJ (eds): Prehospital Care: Pearls and Pitfalls. People's Medical Publishing House, Shelton, CT, 2012:79-82
56. **Colwell CB**. *Incident Management*. In: Pons PT, Markovchick VJ (eds): Prehospital Care: Pearls and Pitfalls. People's Medical Publishing House, Shelton, CT, 2012:137-45
57. **Colwell CB**. *Chest Pain*. In: Pons PT, Markovchick VJ (eds): Prehospital Care: Pearls and Pitfalls. People's Medical Publishing House, Shelton, CT, 2012:239-44
58. Prehospital Care. Emergency Medicine International Special Edition. Thomas SH, **Colwell C**, Deslandes JC, Dyer S, Goodloe JM, Guest Editors. Hindawi Publishing Corp, 2012
59. Thomas SH, **Colwell C**, Deslandes JC, Dyer S, Goodloe JM. Prehospital Care. Emergency Medicine International 2012; article ID 965480
60. **Colwell CB**. *Lightning and Electrical Injuries*. In: Adams (ed): Emergency Medicine: Clinical Essentials Elsevier Saunders, Philadelphia, PA 2nd Edition 2013:1148-52
61. **Colwell CB**. Book review: *An Introduction to Clinical Emergency Medicine, 2nd ed*. In: J Trauma and Acute Care Surgery 2013 Jan;74(1):344
62. **Colwell CB**. *Radiation Injuries* In: Marx (ed): Rosen's Emergency Medicine: Concepts and Clinical Practice Elsevier Saunders, Philadelphia, PA 8th Edition, 2014:1945-53
63. Murphy P, **Colwell C**, Pineda G. *All You Need to Know About Bariatrics*. EMS World 2014, 43(3):26-35
64. **Colwell CB**, Moore EE. *Traumatic Shock*. In: Wolfson AB (ed): Harwood Nuss' Clinical Practice of Emergency Medicine Lippincott Williams & Wilkins, Philadelphia, PA, 6th Edition, 2014:137-142
65. **Colwell CB**. *High Altitude Illness* In: Schaidler et al (ed): Rosen and Barkin's 5- Minute Emergency Medicine Consult. Wolters Kluwer, Philadelphia, PA 5th Edition, 2015:534-5
66. **Colwell CB**. *Dialysis Complications* In: Schaidler et al (ed): Rosen and Barkin's 5- Minute Emergency Medicine Consult. Wolters Kluwer, Philadelphia, PA 5th Edition, 2015: 312-3
67. **Colwell CB**. *Hyperkalemia* In: Schaidler et al (ed): Rosen and Barkin's 5- Minute Emergency Medicine Consult. Wolters Kluwer, Philadelphia, PA 5th Edition, 2015: 562-3
68. **Colwell CB**. *Refusal in the Field: When can an uncooperative patient refuse care and transport?* Journal of Emergency Medical Services (JEMS) July, 2016

69. **Colwell CB**, Moore E. *Initial evaluation and management of abdominal gunshot wounds in adults*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 10,156 views in 2018)
70. **Colwell CB**, Moore E. *Initial evaluation and management of abdominal stab wounds in adults*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 10,383 views in 2018)
71. **Colwell CB**. *Initial evaluation and management of shock in adult trauma and management of non-hemorrhagic shock*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 17,317 views in 2018)
72. **Colwell CB**. *Geriatric trauma: Initial evaluation and management*. In: UpToDate, Post TW (Ed), UpToDate, Waltham, MA. (Revision – July, 2019. 17,777 views in 2018)
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74. **Colwell CB**, Fox CJ. *Abdominal Aortic Aneurysm*. In: Rosen's Emergency Medicine – Concepts and Clinical Practice. Elsevier, Philadelphia, PA. 9th Edition, 2018:1027-35.
75. **Colwell CB**. *Imaging in trauma*. Audio Digest Emergency Medicine 35:16 (August 21), 2018
76. **Colwell CB**. *Geriatric trauma*. Audio Digest Emergency Medicine 35:16 (August 21), 2018
77. Mason J, **Colwell CB**, Grock A. *Agitation Crisis Control*. Ann Emerg Med 2018;72:371-3
78. Mason J, Mallon B, **Colwell CB**. *Restraining the Agitated Patient*. EM:RAP October 2018, Volume 18, Issue 10.
79. **Colwell CB**. *Initial management of moderate to severe hemorrhage in the adult trauma patient*. In UpToDate. Post TW (Ed), UpToDate, Waltham, MA. (Accessed July 12, 2019 – 73,983 views in 2018)
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Letters to the Editor

1. **Colwell C**, Markovchick V, Pons P: **Drug Concern** J. Emerg. Med. Services 2000;25:10
2. Abboud P, **Colwell C**: **Critically reappraising the literature-driven practice of analgesia administration for acute abdominal pain in the emergency room prior to surgical evaluation**. Am J Surg, 2004; Jul 188(1):102-3, Author reply 103-4
3. **Colwell C**, McVaney K, Haukoos J: Reply to: **Out-of-hospital Endotracheal Intubation-It's Time to Stop Pretending that Problems Don't Exist**. Acad Emerg Med 2005;12(12):1245-6

4. **Colwell C: Reply to: EMS Response to Columbine: Lessons Learned.** The Internet Journal of Rescue and Disaster Medicine 2006; Vol. 5, No. 2

Abstracts Presented

1. **Colwell C, Wolfe R, Moore E, Cairns C: Differences in Hemodynamic Data Between Geriatric and Younger Adult Trauma Patients.** Poster Presentation; 21st Annual Rocky Mountain Conference on Emergency Medicine and Nursing, Jan. 30th, 1995
2. **Colwell C, Wolfe R, Moore E, Cairns C: Differences in Hemodynamic Data Between Geriatric and Younger Adult Trauma Patients.** Presented as an oral presentation at the 25th Annual Meeting of the Society for Academic Emergency Medicine, Denver, Colorado, May, 1995.
3. **Branney S, Colwell C, Aschenbrenner J, Pons P: Safety of Droperidol for Sedating Out-of-control ED Patients.** Presented at the Annual Meeting of the Society for Academic Emergency Medicine, Denver, Colorado, 1996. (Acad Emerg Med 1996; 3:527)
4. **Barton E, Ramos J, Colwell C: Intranasal Administration of Naloxone by Paramedics: Could this be a better practice?** Presented at American College of Emergency Physicians (ACEP) Research Forum, October 2001. (Ann Emerg Med 2001; 38(4):Supplement p. S18)
5. **Barton E, Colwell C, Ramos J: Intrnasal Administration of Naloxone by Paramedics: Could this be a better practice?** Presented at The First Mediterranean Emergency Medicine Congress, Stressa Convention Center, Stressa, Italy, September 2001
6. **Levine S, Colwell C, Pons P, Gravitz C, Haukoos J: How well do paramedics predict admission to the hospital?** Presented at AAEM Resident Research Competition, San Diego, California, February 2005
7. **Colwell C, Mehler P, Sabel A, Harper J, Johnson L, Cassell L: Determining the Quality of Comprehensive Care for Non-Traumatic Chest Pain through a Composite Measure.** Presented at SAEM Western Regional Research Forum, Portland, Oregon, March, 2007.
8. **Colwell C, Mehler P, Sabel A, Harper J, Johnson L, Cassell L. Analysis of Ambulance Response for Patients with Medical Chest Pain Based on the Severity of Potential Cardiac Symptoms.** Presented at SAEM Western Regional Research Forum, Portland, Oregon, March 2007.
9. **Haukoos JA, Witt G, Colwell C. The Epidemiology of Out-of-Hospital Cardiac Arrest in Denver, Colorado. Results from Phase I of the Denver Cardiac Arrest Registry.** Presented at SAEM Annual Meeting, May 30th, 2008, Washington D.C.
10. **Kashuk JL, Moore EE, Barnett C, Berlew CC, Colwell CB, Brody A, Johnson J, Biffl W, Sabel AL. Implementation of an in-hospital mass casualty incident (MCI) plan based upon the Israeli model: The challenges of shifting to the battlefield mentality in the civilian setting.** International

- Preparedness & Response to Emergencies & Disasters Conference. Tel –Aviv, Israel. January 11th, 2010.
11. Moore EE, Kashuk JL, **Colwell CB**, Barnett C, Burlew CC, Biffl WL, Johnson JL, Brody A, Sabel A. **Live victim volunteers (LVV) enhance performance improvement for in-hospital mass casualty incident (MCI) drills: listen to the patient!** International Preparedness & Response to Emergencies and Disasters (IPRED). Tel-Aviv, Israel. January 12th, 2010.
 12. Barnett C, Kashuk J, Moore EE, **Colwell CB**, Johnson JL, Biffl W, Burlew CC, Brody A, Sabel A. **Notification and Communication: Critical initial steps in mass casualty incident drills.** International Preparedness & Response to Emergencies and Disasters (IPRED). January 12th, 2010. Tel Aviv, Israel
 13. **Colwell CB**, Moore EE, Kashuk J, Robinson J, Bookman S. **Lessons learned from the 2008 Democratic National Convention.** International Preparedness & Response to Emergencies and Disasters (IPRED). Tel-Aviv, Israel. January 12th, 2010.
 14. Soriya G, **McVaney K**, **Liao M**, **Haukoos J**, **Byyny R**, **Colwell C**. **Safety of pre-hospital single-dose fentanyl in adult trauma patients.** 13th Annual Western Regional Society for Academic Emergency Medicine Meeting, Sonoma, CA, 2010 (Oral).
 15. Soriya G, **McVaney K**, **Liao M**, **Haukoos J**, **Byyny R**, **Colwell C**. **Safety of pre-hospital single-dose fentanyl in adult trauma patients.** Society for Academic Emergency Medicine Annual Meeting, Scottsdale, Phoenix, AZ, 2010 (Poster).
 16. Sasson C, **Colwell C**, McNally B, Haukoos J. **“Associations Between Individual-level and Census Tract-level Characteristics and Performance of Bystander CPR Among Patients Who Experience Out-of-Hospital Cardiac Arrest.”** Oral Presentation American Heart Association November 2010.
 17. Sasson C, **Colwell C**, McNally B, Dunford J, Haukoos J. **“Using the Cardiac Arrest Registry to Enhance Survival to Examine Regional Variation in the Utilization of Automated External Defibrillators.”** Poster Presentation Resuscitation Science Symposium American Heart Association November 2010.
 18. Macht M, **Colwell CB**, Mull A, Johnston J B, Shupp A, Marquez KD, Gaither J, Haukoos J. **“Droperidol versus haloperidol for prehospital sedation of acutely agitated patients.”** Poster presentation at NAEMSP 2012 Annual Meeting, January 2012
 19. Nassel A, Haukoos J, McNally B, **Colwell CB**, Severyn F, Sasson C. **“Using Geographic Information Systems and Cluster Analysis to identify Neighborhoods with High Out of Hospital Cardiac Arrest Incidence and Low Bystander Cardiopulmonary Resuscitation Prevalence in Denver, Colorado.”** Oral Presentation, Society of Academic Emergency Medicine Annual Meeting, May 2012, Chicago, Illinois. Acad Emerg Med 2012 19(4) Suppl.1, #513:S271-272
 20. Vogel JA, Arens A, Johnson C, Ruygrok M, Smalley C, Byyny R, **Colwell CB**, Haukoos J. **“Prehospital and Emergency Department Intubation is**

Associated with Increased Mortality in Patients with Moderate to Severe Traumatic Brain Injury”. Oral Presentation, Society of Academic Emergency Medicine Annual Meeting, May 2012, Chicago, Illinois. Acad Emerg Med 2012 19(4) Suppl. 1, #517:S273-S274

21. Vogel JA, Sasson C, Hopkins E, **Colwell CB**, Haukoos J. “Systems-Wide Cardiac Arrest Interventions Improve Neurologic Survival after Out-of-Hospital Cardiac Arrest”. Moderated Poster Presentation, Society of Academic Emergency Medicine Annual Meeting, May 2012, Chicago, Illinois. Acad Emerg Med 2012 19(4) Suppl. 1, #615:S324
22. Muramoto S, **Colwell C**, Mehler P, Bakes K. “Cost analysis of a hospital-based violence intervention program: At-risk intervention and mentoring program (AIM).” Poster presentation at 25th Annual Interprofessional Research and EBP Symposium, March 2014, Denver, CO.
23. Huang D, Niedzwiecki M, Mercer M, **Colwell CB**, Mann C, Hsia R. “Poor Neighborhoods Have Slower Response and Transport Times”. Oral Presentation, National Association of EMS Physicians (NAEMSP) 2017 Annual Meeting, New Orleans, LA, January 26th, 2017.
24. Kanzaria HK, Mercer MP, To J, Costa B, Luna A, Bilinski J, Staconis D, Pitts M, Dentoni T, Williams T, Singh MK, **Colwell CB**, Marks JD. “Using Lean Methodology to Create a Care Pathway for Low Acuity Emergency Department Patients in a Safety-Net Hospital”. Poster presentation, Society for Academic Emergency Medicine (SAEM) 2017. Orlando, FL. May 17th, 2017.
25. Niedzwiecki M, Huang D, Mercer M, **Colwell CB**, Mann NC, Hsia RY. “Do Poor Neighborhoods Have Slower EMS Times? Oral presentation, Society for Academic Emergency Medicine (SAEM) 2017. Orlando, FL, May 18th, 2017

Invited Lectures, Presentations, and Visiting Professorships:

1. Hypertensive Emergencies
Interdepartmental Grand Rounds, University of Michigan
Ann Arbor, Michigan, May 1997
2. Pediatric Meningitis
Emergency Medicine Grand Rounds, University of Michigan
Ann Arbor, Michigan, October, 1997
3. Antibiotic Use in the Emergency Department
Attending Lecture in Emergency Medicine
Denver Health Medical Center, Denver, Colorado, October 1998
4. The Myth of EMS Response Times
26th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, July 1999
5. Geriatric Trauma
26th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, July 1999
6. Mass Casualty and Disaster Management: The Columbine Shootings
Multidisciplinary Trauma Conference, Denver Health Medical Center

- Denver, Colorado, September 1999
7. Mass Casualty and Disaster Management: The Columbine Shootings
Northeast EMS Conference
Boston, Massachusetts, September 1999
 8. Mass Casualty and Disaster Management: The Columbine Shootings
Keynote Address, Winnipeg EMS Conference
Winnipeg, Canada, October 1999
 9. Mass Casualty and Disaster Management
Grand Rounds
Harvard Medical School and Harvard Affiliated Emergency Medicine
Residency
October 26th, 1999
Boston, Massachusetts
 10. Mass Casualty and Disaster Management: The Columbine Shootings
Pediatric Emergency Care Conference
Grand Rapids, Michigan, March 2000
 11. Geriatric Trauma
Trauma Care Appreciation Day
Denver, Colorado, May 2000
 12. Mass Casualty and Disaster Management: The Columbine Shootings
Fifth International Conference on Pediatric Trauma
Beaver Creek, Colorado, June 2000
 13. Complaints Against EMS
27th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Steamboat, Colorado, July 2000
 14. Mass Casualty and Disaster Management: The Columbine Shootings
Sixth Annual Trauma Symposium, Cleveland Clinic Health System
Cleveland, Ohio, October 2000
 15. Mass Casualty and Disaster Management: The Columbine Shootings
EMS TEST Conference
Columbus, Georgia, October 2000
 16. Myocardial Infarction
Colorado State EMS Conference 2000
Breckenridge, Colorado, October 2000
 17. Hypothermia
Colorado State EMS Conference 2000
Breckenridge, Colorado, October 2000
 18. Complaints Against EMS
Colorado State EMS Conference 2000
Breckenridge, Colorado, October 2000
 19. Hypothermia
Rocky Mountain Winter Trauma and Emergency Medicine Conference
Copper Mountain, Colorado, January 2001
 20. Mechanism of Injury
Grand Rounds, Longmont Community Hospital
Longmont, Colorado, March 2001

21. Stabilization of the Trauma Patient
Trauma Care Appreciation Day, Denver Health Medical Center
Denver, Colorado, April 2001
22. Mass Casualty and Disaster Management: The Columbine Shootings
El Paso EMS Conference
El Paso, Texas, September 2001
23. Mass Casualty and Disaster Management: The Columbine Shootings
Memorial Medical Center Trauma Conference
Johnstown, Pennsylvania, October 2001
24. Mechanism of Injury
Colorado State EMS Conference 2001
Breckenridge, Colorado, October 2001
25. Mass Casualty and Disaster Management: The Columbine Shootings
Massachusetts EMS Conference
Worcester, Massachusetts, December 2001
26. Mass Casualty and Disaster Management: The Columbine Shootings
Sierra-Cascade Trauma Society
Crested Butte, CO, February, 2002
27. Mass Casualty and Disaster Management: The Columbine Shootings
Emergency Medicine Grand Rounds, University of Massachusetts
Worcester, Massachusetts, March 2002
28. Mass Casualty and Disaster Management: The Columbine Shootings
Multidisciplinary Trauma Conference, Denver Health Medical Center
Denver, Colorado, March 2002
29. Mass Casualty and Disaster Management: The Columbine Shootings
Grand Rounds, Day Kimball Hospital
Putnam, Connecticut, May 2002
30. Mass Casualty and Disaster Management: The Columbine Shootings
Grand Rounds, Legacy Emanuel Hospital & Health Center
Portland, Oregon, June 2002
31. Mass Casualty and Disaster Management: The Columbine Shootings
Trauma Grand Rounds, Scripps Memorial Hospital
La Jolla, California, September 2002
32. High Altitude Illness
Annual Meeting, Sierra Cascade Trauma Society
Vail, Colorado, January 2003
33. ALS in Trauma: Should We Even Bother?
30th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, August 2003
34. Hypothermia
30th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado, August 2003
35. Research in EMS
Grand Rounds, Denver Paramedic Division
Denver, Colorado September, 2003
36. High Altitude Illness

- Colorado State EMS Conference 2003
Keystone, Colorado, October, 2003
37. Controversies in EMS
Colorado State EMS Conference 2003
Keystone, Colorado, October 2003
38. Hypothermia
Sierra Cascade Trauma Society, 2004
Aspen, Colorado, February 9, 2004
39. Current Research in Prehospital Care
Rocky Mountain Critical Care Transport Conference
Denver, Colorado, May 6th, 2004
40. Blood Substitutes in the Field
Clinical Conference on Pre-Hospital Emergency Care, 2004
Orlando, Florida, July 10th, 2004
41. Management of Potential C-spine Injuries: Clearance and Beyond.
31st Annual Rocky Mountain Trauma and Emergency Medicine Conference
Copper Mtn, Colorado. July 18th, 2004
41. Mass Casualty and Disaster Management: The Columbine Shootings.
Grand Rounds, North Colorado Medical Center
Greeley, Colorado. September 14, 2004
42. Research in EMS and Trauma
12th Annual EMS and Trauma Grand Rounds Conference
Aurora, Colorado. September 15, 2004
43. Blood Substitutes in the Field: The Prehospital Trials
2004 Colorado State EMS Conference
Keystone, Colorado. November 5th, 2004
44. Cadaver Anatomy Lab: Dissection and Procedure Review on a Human Cadaver. Preconference workshop, 2004 Colorado State EMS Conference
Keystone, Colorado. November 5th, 2004
45. Prehospital Management of Trauma
32nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 14th, 2005
46. Difficult Airway Lecture/Lab
32nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 15th, 2005
47. Bleeding Disorders
32nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 15th, 2005
48. Travel-Related Infectious Disease
ACEP Scientific Assembly 2005
September 28th, Washington D.C.
49. The Hot Joint
ACEP Scientific Assembly 2005
September 29th, Washington D.C.
50. Mass Casualty and Disaster Management
Trauma and Critical Care Conference

San Juan Regional Medical Center, Farmington, New Mexico
February 18th, 2006

51. Dialysis Related Emergencies
33rd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 14th, 2006
52. Show Me Where it Hurts: Pain Management in the Field
33rd Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 15th, 2006
53. Environmental Emergencies
2006 Rocky Mountain Rural Trauma Symposium
September 14, 2006. Billings, Montana.
54. Drugs of Abuse
2006 Rocky Mountain Rural Trauma Symposium
September 15, 2006. Billings, Montana.
55. Cadaver Anatomy Lab: Dissection and Procedure Review on a Human Cadaver. Preconference workshop, 2006 Colorado State EMS Conference
Keystone, Colorado.
56. Dialysis-Related Emergencies
2006 Colorado State EMS Conference
November 3rd, 2006, Keystone, Colorado
57. High-Altitude Illness
2006 Colorado State EMS Conference
November 3rd, 2006. Keystone, Colorado
58. Drugs of Abuse
34th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 20th, 2007
59. Environmental Emergencies
34th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 22th, 2007
60. Ultrasound Use in the Acutely Traumatized Patient
Instuctor, Ultrasound Workshop
34th Annual Rocky Mountain Trauma and Emergency Medicine Conference
Breckenridge, Colorado. June 22th, 2007
61. Jigawatts: Back to the Future of Electrical Injuries
American College of Emergency Physicians - Scientific Assembly,
October 8-11, 2007. Seattle, Washington
62. What's Hot, What's Not: Hypo to Hyperthermia, and All Things in Between
American College of Emergency Physicians - Scientific Assembly,
October 8-11, 2007. Seattle, Washington
63. Environmental Emergencies
Colorado State EMS Conference, November 8th-11th, 2007
Keystone, Colorado
64. Cadaver Anatomy Lab: Dissection and Procedure Review.
Colorado State EMS Conference 2007 – Pre-conference Workshop
Keystone, Colorado
65. Drugs of Abuse

- Colorado Society of Osteopathic Medicine: The Medical “Home Improvements” Course. February 24th, 2008
Keystone, Colorado
66. Initial Evaluation of the Trauma Patient
Colorado Society of Osteopathic Medicine: The Medical “Home Improvements” Course. February 24th, 2008
Keystone, Colorado
67. Geriatric Trauma
35th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 25th, 2008
Breckenridge, CO
68. What’s Hot, What’s Not: Hypo to Hyperthermia and All Things in Between
ACEP Scientific Assembly 2008, October 28th
Chicago, IL
69. Triage Out Debate: Efficient or Unethical?
ACEP Scientific Assembly 2008, October 28th
Chicago, IL
70. Update in EMS Literature: What’s Hot and What’s Not
ACEP Scientific Assembly 2008, October 29th
Chicago, IL
71. Cadaver Dissection Lab
2008 Colorado State EMS Conference, November 6th
Breckenridge, CO
72. Geriatric Trauma
2008 Colorado State EMS Conference, November 7th
Breckenridge, CO
73. Lessons Learned from the DNC
Colorado Front Range MMRS Hospital Response to a Mass Casualty Incident, December 8th, 2008
Denver, CO
74. Lessons Learned from the DNC
The EMS State of the Sciences Conference: A Gathering of Eagles 2009
February 20th, 2009
Dallas, TX
75. Nightmare EMS Communications
The EMS State of the Sciences Conference: A Gathering of Eagles 2009
February 21st, 2009
Dallas, TX
76. Mass Casualty and Disaster Management
Trauma Perspectives 2009 (4/10/09)
Durango, CO
77. Airway Management and Pitfalls
Trauma Perspectives 2009 (4/10/09)
Durango, CO
78. Trauma Management
Integrated Clinicians Course (ICC) 7004

University of Colorado at Denver School of Medicine

May 5th, 2009

79. EMS Update, 2009
Grand Rounds, Beth Israel/Deaconess Department of Emergency Medicine
May 6th, 2009
80. EMS Update – Panel Discussion
36th Annual Trauma and Emergency Medicine Conference
June 18th 2009, Breckenridge, CO
81. Trauma in Pregnancy
36th Annual Trauma and Emergency Medicine Conference
June 19th 2009, Breckenridge, CO
82. Cadaver Lab: Anatomical Dissection
2009 Colorado State EMS Conference
November 5th, Keystone, Colorado
83. Trauma in Pregnancy
2009 Colorado State EMS Conference
November 6th, Keystone, Colorado
84. Update in EMS Literature: What's Hot and What's Not
2009 Colorado State EMS Conference
November 6th, Keystone, Colorado
85. Lessons Learned from the DNC
International Preparedness and Response to Emergencies and Disasters
(IPRED)
January 12th 2010
Tel Aviv, Israel
86. Geriatric Trauma
Second Annual BCFFA EMS Conference
January 23rd 2010, Boulder, Colorado
87. Pharmaceutical Restraints: A New Medication Approach to the Agitated Patient
The EMS State of the Sciences Conference: A Gathering of Eagles 2010
February 26th, 2010
Dallas, Tx
88. Transfer of the Rural Trauma Patient
Second Annual Western Colorado Trauma Conference
May 21st 2010, Delta, Colorado
89. Moderator, EMS Medical Director Panel: "Refusal of Care in the Prehospital Setting"
37th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 17th 2010, Breckenridge, Colorado
90. Critical Issues in Triage
37th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 18th 2010, Breckenridge, Colorado
91. Field Triage Guidelines: State of the Art or State of the Science?
ACEP Scientific Assembly 2010
September 28th, Las Vegas, Nevada

92. Less Lethal Force: An Emerging Problem in Prehospital Care
ACEP Scientific Assembly 2010
September 29th, Las Vegas, Nevada
93. Trauma Case Panel: Stump the Experts
Carlo Rosen (Moderator), Christopher B. Colwell MD, John Fildes MD, Julie A. Mayglothling MD.
ACEP Scientific Assembly 2010
September 29th, Las Vegas, Nevada
94. Critical Issues in Triage
Trauma and Critical Care Conference
October 22nd, 2010
Durango, Colorado
95. Trauma Panel Case Review
Christopher B. Colwell, Moderator
October 23rd, 2010
Durango, Colorado
96. Lightning and Electrical Emergencies
Trauma and Critical Care Conference
October 23rd, 2010
Durango, Colorado
97. Cadaver Dissection Lab
Colorado State EMS Conference 2010
November 4th, 2010
Keystone, Colorado
98. Accidental Hyper And Hypothermia And All Things In Between
Colorado State EMS Conference 2010
November 5th, 2010
Keystone, Colorado
99. Biophone Calls: The Good, The Bad, And The Ugly
Colorado State EMS Conference 2010
November 5th, 2010
Keystone, Colorado
100. Geocoding Cardiac Arrest in Denver
ECCU 2010 (Emergency Cardiac Care Update)
December 8th, 2010
San Diego, California
101. Management of the Agitated Patient
ECCU 2010 (Emergency Cardiac Care Update)
December 9th, 2010
San Diego, California
102. The Nose Knows: Intranasal Medication Options are Growing
EMS State of the Sciences: A Gathering of Eagles XIII 2011
February 26th, 2011
UT Southwestern Medical Center, Dallas, Texas
103. Beyond Agitated Delirium: Dealing with the Issue of In-Custody Deaths
The EMS State of the Sciences: A Gathering of Eagles XIII 2011

February 26th, 2011

UT Southwestern Medical Center, Dallas, Texas

104. ED Operations 101: Follow the Money
Council of Emergency Medicine Residency Directors (CORD) Academic Assembly 2011 (March 4th)
San Diego, California
105. CPR, Defibrillation, and Drugs: What is the right VF mix?
EMS Regional Conference: Resuscitation Excellence
May 15th, 2011
New York, New York
106. We Don't Need No Stinking Breaths! Compressions Only Pre-Arrival Instructions.
EMS Regional Conference: Resuscitation Excellence
May 15th, 2011
New York, New York
107. Moderator – Panel Discussion: Optimizing Colorado's Trauma System
38th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 22nd, 2011
Breckenridge, Colorado
108. Pitfalls in Trauma Care
38th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 24th, 2011
Breckenridge, Colorado
109. Deleterious Delirium Deliberations: Modern Pitfall is Managing Agitated EMS Patients
Advanced EMS Practitioner's Forum and Workshop
ACEP Scientific Assembly
October 14th, 2011
San Francisco, California
110. Certifiable Behaviors: Preparing for EMS Subspecialty Board Certification
Advance EMS Practitioner's Forum and Workshop
ACEP Scientific Assembly
October 14th, 2011
San Francisco, California
111. Cadaver Dissection and Anatomy Lab
Colorado State EMS Conference 2011
November 3rd, 2011
Keystone, Colorado
112. On the Wings of Eagles: Hot Topics in EMS
Colorado State EMS Conference 2011
November 4th, 2011
Keystone, Colorado
113. Droperidol for Agitation
Advanced Topics in Medical Direction
NAEMSP National Meeting, 2012

- January 11th, 2012
Tucson, Arizona
114. Trauma in Pregnancy
Children's Hospital EMS Conference
Aurora, Colorado
January 20th, 2012
115. Withdrawing Support: A Prehospital Protocol for Alcohol Withdrawal
EMS State of the Science: A Gathering of Eagles XIV
February 24th, 2012
Dallas, Texas
116. A Sanguine Approach: The Use of Blood Products and Substitutes in the Field
EMS State of the Science: A Gathering of Eagles
February 24th, 2012
Dallas, Texas
117. Blast Injuries
1st Annual Trauma Symposium
March 15th, 2012
Burlington, Colorado
118. Rural Trauma
1st Annual Trauma Symposium
March 15th, 2012
Burlington, Colorado
119. Trauma in Pregnancy
2012 NE Colorado EMS Symposium
April 21st, 2012
Fort Morgan, Colorado
120. Hemorrhage Control in the Field: Tourniquets and Beyond
Grand Rounds – St. Mary's and Convent Health Care/Synergy Medical Center
Hospitals
May 10th, 2012
Saginaw, Michigan
121. Mass Casualty and Disaster Management
Invited Lecture – Convent Health Care/Synergy Medical Center
April 21st, 2012
Saginaw, Michigan
122. Trauma in Pregnancy
39th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 29th, 2012
Breckenridge, Colorado
123. Taking it on the QT: What are the Cardiac Effects of Sedation Practices?
Emergency Cardiac Care Update (ECCU) 2012
Pre-conference Workshop
September 12th, 2012
Orlando, Florida
124. Withdrawing Support: Managing Alcohol Withdrawal in the Field

- Emergency Cardiac Care Update (ECCU) 2012
Pre-conference Workshop
September 12th, 2012
Orlando, Florida
125. Making Waves Diagnostically: Identifying Subtle Critical Emergencies with Capnography
Emergency Cardiac Care Update (ECCU) 2012
Conference Session – Eagles: State of the Science
September 13th, 2012
Orlando, Florida
126. Two Carbon Fragmentations: A Prehospital Protocol for Ethanol Withdrawal.
2012 ACEP Advanced EMS Practitioners' Forum and Workshop
October 7th, 2012
Denver, Colorado
127. How to Break the Ache: 2012 Approaches to Prehospital Pain Control
2012 ACEP Advanced EMS Practitioners' Forum and Workshop
October 7th, 2012
Denver, Colorado
128. I'd Scan That! Effective Diagnostic Trauma Imaging
ACEP Scientific Assembly
October 9th, 2012
Denver, Colorado
129. Evidence-Based Minor Trauma Management
ACEP Scientific Assembly
October 9th, 2012
Denver, Colorado
130. Trauma Talk: The Latest and the Greatest Trauma Literature
ACEP Scientific Assembly
October 10th, 2012
Denver, Colorado
131. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield
ACEP Scientific Assembly
October 10th, 2012
Denver, Colorado
132. MCI Medical Response: Are We Prepared?
Denver Health Critical Care Conference
October 12th, 2012
Denver, Colorado
133. The Colorado Shootings: Lessons Learned from Mass Casualty Events
Grand Rounds – Beth Israel/Deaconess Medical Center
November 7th, 2012
Boston, Massachusetts
134. The Colorado Shootings: Lessons Learned from Mass Casualty Events
Keynote Speaker: Hillsborough County Medical Association

November 13th, 2012

Tampa Bay, Florida

135. The Colorado Shootings: Lessons Learned on Disaster Management and Mass Casualty Events

Grand Rounds: Scripps Memorial Hospital

December 11th, 2012

La Jolla, California

136. EMS in the Cross-Hairs: The Columbine, Aurora and Safeway Shootings

EMS State of the Science: A Gathering of Eagles XV

February 22nd, 2013

Dallas, Texas

137. Oh, What a Relief It Is! Revisiting Pain Medication Use in EMS

EMS State of the Science: A Gathering of Eagles XV

February 22nd, 2013

Dallas, Texas

138. ED Operations 101: Follow the Money

Council of Emergency Medicine Residency Directors (CORD)

Academic Assembly 2013

March 7th, 2013

Denver, Colorado

139. Disaster Planning & Response: Lessons Learned from the Colorado Shootings

Trauma, Critical Care, and Acute Care Surgery 2013 – Medical Disaster Response

March 17th, 2013

Las Vegas, Nevada

140. Case Management Interactive Session: Practical Issues & Dilemmas in Mass Casualty Preparedness

Trauma, Critical Care, and Acute Care Surgery 2013 – Medical Disaster Response

March 17th, 2013

Las Vegas, Nevada

141. Trauma Surgeons Emergency Physicians and Trauma Care

Trauma, Critical Care, and Acute Care Surgery 2013

March 20th, 2013

Las Vegas, Nevada

142. Mass Casualty and Disaster Management – The Colorado Shootings

Visiting Professorship/Grand Rounds

Southern Illinois University School of Medicine

April 18th, 2013

Springfield, Illinois

143. Mass Casualty and Disaster Management – The Colorado Shootings

Sangamon County Medical Society

April 18th, 2013

Springfield, Illinois

144. Lessons Learned from the Colorado Shootings

- 12th Annual Trauma Symposium
Mississippi Coastal Trauma Region
May 1st, 2013
Biloxi, Mississippi
145. Mass Casualty and Disaster Management – The Colorado Shootings
Grand Rounds – Indiana University Hospital-Methodist
May 10th, 2013
Indianapolis, Indiana
146. Prehospital Panel
Moderator
40th Annual Rocky Mountain Trauma & Emergency Medicine
Conference
June 27th, 2013
Breckenridge, Colorado
147. Environmental Emergencies
40th Annual Rocky Mountain Trauma & Emergency Medicine Conference
June 28th, 2013
Breckenridge, Colorado
148. Lessons Learned from the Colorado Shootings
43rd Annual Wyoming Trauma Conference
August 16th, 2013
Cheyenne, Wyoming
149. Oh What a Relief It Is: Evolving Trends in Prehospital Pain Management
IAFF Advanced EMS Practitioners, Chiefs, & Medical Directors Forum
August 24th, 2013
Denver, Colorado
150. EMS in the Cross-Hairs: The Columbine, Aurora, and Safeway Shootings
IAFF Advanced EMS Practitioners, Chiefs, & Medical Directors Forum
August 24th, 2013
Denver, Colorado
151. The Reality of the New Specialty: What Will Be the Impact of the New
EMS Boards for Fire?
IAFF Advanced EMS Practitioners, Chiefs, & Medical Directors Forum
August 24th, 2013
Denver, Colorado
152. I'd Scan That!: Use of CT Scans in Trauma Care
Grand Rounds – University of Wisconsin School of Medicine
August 29th, 2013
Madison, Wisconsin
153. Evidence-Based Minor Trauma Management
Grand Rounds – University of Wisconsin School of Medicine
August 29th, 2013
Madison, Wisconsin
154. Mass Casualty and Disaster Management: EMS Lessons from the
Colorado Shootings
EMS World Expo 2013

- September 11th, 2013
Las Vegas, Nevada
155. 2013 Approaches to Pain Management and Sedation
EMS World Expo 2013
September 11th, 2013
Las Vegas, Nevada
156. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
DuPage County Medical Society Annual Meeting
October 9th, 2013
Chicago, Illinois
157. Mass Casualty Management: The Colorado Shootings
Northern Colorado Emergency and Trauma Care Symposium
October 11th, 2013
Loveland, Colorado
158. The Combative, Uncooperative, Arrested and Threatening Trauma Patient: A Legal, Ethical and Medical Minefield!
ACEP Scientific Assembly 2013
October 15th, 2013
Seattle, Washington
159. Skip the Scan! Effective Diagnostic Trauma Imaging
ACEP Scientific Assembly 2013
October 16th, 2013
Seattle, Washington
160. I Survived: Domestic Disasters – Lessons Learned from the Trenches
ACEP Scientific Assembly 2013
October 16th, 2013
Seattle, Washington
161. Managing Ballistic Injuries in the Pre-Hospital Setting
World Extreme Medicine Expo 2013
Harvard Medical School
October 28th, 2013
Boston, Massachusetts
162. Cadaver Lab – Trauma Procedures
Colorado State EMS Conference 2013
November 7th, 2013
Keystone, Colorado
163. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
2013 Trauma and Critical Care Conference
November 8th, 2013
Durango, Colorado
164. Mass Casualty and Disaster Management: The Colorado Shootings
Lake County Medical Society Annual Meeting
December 3rd, 2013
Chicago, Illinois

165. Myths in Trauma Care
Yampa Valley Medical Center Trauma Conference
November 15th, 2013
Steamboat Springs, Colorado
166. Myths in Pediatric Care
The Brian Schimpf Memorial Prehospital Pediatric Care Conference
February 8th, 2014.
Denver, Colorado
167. Child-Like Behaviors: 10 Myths of EMS Pediatric Care
EMS State of the Science: A Gathering of Eagles XVI
February 28th, 2014
Dallas, Texas
168. Epidemic Proportions: Dosing Ketamine in the Era of Mamba Dramas
EMS State of the Science: A Gathering of Eagles XVI
March 1st, 2014
Dallas, Texas
169. Covering Mental Illness and Violence
Health Journalism 2014 (Association of Health Care Journalism)
March 29th, 2014
Denver, Colorado
170. Wound Management: How Do you Manage Cuts and Burns
American College of Emergency Physicians (ACEP) Advanced Practice
Provider Academy
April 15th, 2014
San Diego, CA
171. Evaluation of Patients with Blunt Multiple Trauma and Penetrating
Trauma: A Systematic Approach
American College of Emergency Physicians (ACEP) Advanced Practice
Provider Academy
April 15th, 2014
San Diego, CA
172. Preparedness Put to the Test: Lessons Learned from Major Events to
Guide Hospital Disaster Preparedness
Medical World Americas Conference and Expo
April 28th, 2014
Houston, TX
173. Myths in Trauma Care
13th Annual MS Coastal Trauma Symposium
May 14th, 2014
Biloxi, MS
174. Anxiolysis for the Cardiac Care Provider: Easy Choices for Sedation in
Emergency Care
Emergency Cardiac Care Update (ECCU), EMS Preconference Workshop
June 3rd, 2014
Las Vegas, NV
175. Taking it on the QT: What are the Cardiac Effects of Sedation Practices?

- Emergency Cardiac Care Update (ECCU), EMS Preconference Workshop
June 3rd, 2014
Las Vegas, NV
176. Anxiolysis for the Cardiac Care Provider: Easy Choices for Sedation in Emergency Care
Emergency Cardiac Care Update (ECCU), 2014 Citizens CPR
Foundation: Clinical Solutions and Best Practices for EMS
June 4th, 2014
Las Vegas, NV
177. Taking it on the QT: What are the Cardiac Effects of Sedation Practices?
Emergency Cardiac Care Update (ECCU), 2014 Citizens CPR
Foundation: Clinical Solutions and Best Practices for EMS
June 4th, 2014
Las Vegas, NV
178. Hyperfibrinolysis, Physiologic Fibrinolysis, and Fibrinolysis Shutdown: The Spectrum of Postinjury Fibrinolysis and Relevance to Antifibrinolytic Therapy
Moderator - Denver Health Trauma Services Continuing Education Series
June 25th, 2014
Denver, CO
179. Myths in Pediatric Emergency Care
41st Annual Rocky Mountain Trauma and Emergency Medicine Conference
July 9th, 2014
Breckenridge, CO
180. The Combative, Uncooperative, Intoxicated Patient: An Ethical, Moral and Legal Dilemma
41st Annual Rocky Mountain Trauma and Emergency Medicine Conference
July 11th, 2014
Breckenridge, CO
181. Myths in Pediatric Care
2014 University of Colorado Health and Denver Health Trauma Consortium: Acute Care Surgery, Trauma, and EMS Conference
August 23rd, 2014
Colorado Springs, CO
182. Rural Trauma Care
Great Plains Trauma Conference
September 18th, 2014
North Platte, Nebraska
183. How to Break the Ache: 2014 Ways to Manage Prehospital Analgesia and Sedation
Advanced EMS Practitioner's Forum and Workshop
ACEP 2014
October 26th, 2014
Chicago, Illinois
184. No Small Lie: Debunking Myths in Pediatric EMS Care
Advanced EMS Practitioner's Forum and Workshop

- ACEP 2014
October 26th, 2014
Chicago, Illinois
185. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield!
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 27th, 2014
Chicago, Illinois
186. Cruising the Literature: The Most Influential EMS Articles of 2014
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 28th, 2014
Chicago, Illinois
187. Tales from the Rig: EMS Medical Director Words of Wisdom
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 28th, 2014
Chicago, Illinois
188. Imagine a World Without Backboards? Controversies in Spinal Immobilization
American College of Emergency Physicians (ACEP) Scientific Assembly
2014
October 28th, 2014
Chicago, Illinois
189. Disaster Management: Lessons Learned from the Colorado Shootings
Keynote Address: 9th Annual NORTN Regional Trauma Conference
November 7th, 2014
Akron General Hospital, Akron, Ohio
190. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield!
9th Annual NORTN Regional Trauma Conference
November 7th, 2014
Akron General Hospital, Akron, Ohio
191. Ketamine for Excited Delirium
EMS World Expo
November 11th, 2014
Nashville, TN
192. 10 Myths of EMS Pediatric Care
EMS World Expo
November 11th, 2014
Nashville, TN
193. Biophone Communications
EMS World Expo
November 11th, 2014
Nashville, TN

194. EMS Medical Director Panel
EMS World Expo
November 12th, 2014
Nashville, TN
195. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield!
Boulder Community Hospital/AMR EMS Conference 2014
December 6th, 2014
Boulder, CO
196. Special K: Ketamine in EMS
7th Annual Advanced Topics in Medical Direction
NAEMSP 2015
January 20th, 2015
New Orleans, LA
197. First it was Backboards, now C-Collars
EMS State of the Science: A Gathering of Eagles XVII
February 20th, 2015
Dallas, TX
198. Taking it to the Streets! Prehospital Infusion of Plasma
EMS State of the Science: A Gathering of Eagles XVII
February 20th, 2015
Dallas, TX
199. Street Fighting Man! When the Combative Patient is Refusing Transport
EMS State of the Science: A Gathering of Eagles XVII
February 21st, 2015
Dallas, TX
200. A Hurt-Full Remark: Supporting Ketamine Use for Pain Management
EMS State of the Science: A Gathering of Eagles XVII
February 21st, 2015
Dallas, TX
201. Imagine a World Without Backboards? Controversies in Spinal Immobilization
2nd Annual Brain Schimpf Memorial Pediatric EMS Conference
February 28th, 2015
Denver, CO
202. Providing for the Providers: Impact of Traumatic Events on Providers
Keynote address: Colorado CPR Association Annual Meeting
April 30th, 2015
Denver, CO
203. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
North Trauma Care Region 2015 Trauma Symposium
May 8th, 2015
Tupelo, MS
204. Management of Excited Delirium in the Era of Legalized Marijuana
Vanderbilt Residency in Emergency Medicine

- May 19th, 2015
Nashville, TN
205. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Grand Rounds Presentation, Vanderbilt University School of Medicine
May 19th, 2015
Nashville, TN
206. Active Shooter – Prehospital Forum (Moderator)
42nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 19th, 2015
Vail, Colorado
207. Imagine a World without Backboards
42nd Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 20th, 2015
Vail, Colorado
208. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Ohio EMS Lecture Series – Keynote address
August 20th, 2015
Akron, Ohio
209. Myths in Pediatric Care
Grand Rounds, Deaconess Regional Trauma Center
EMS Trauma Symposium
September 9th, 2015
Evansville, Indiana
210. Plasma Administration in the Field: The COMBAT Trial
World Trauma Symposium
September 16th, 2015
Las Vegas, Nevada
211. The Combative, Uncooperative, Intoxicated Trauma Patient: A Medical, Legal, and Ethical Nightmare!
EMS World
September 17th, 2015
Las Vegas, Nevada
212. The Medical Impact of Marijuana Legalization
EMS World
September 17th, 2015
Las Vegas, Nevada
213. How to Deploy a New Toy for Every Girl and Boy: Implementing a Simpler System for Treating Children
ACEP 2015 Scientific Assembly Advanced EMS Practitioners Forum and Workshop
October 25th, 2015
Boston, Massachusetts
214. For the Life of all Flesh is the Blood Thereof! Prehospital Use of Blood Products and Systemic Bleeding Control

- ACEP 2015 Scientific Assembly Advanced EMS Practitioners Forum and Workshop
October 25th, 2015
Boston, Massachusetts
215. Trauma STAT! Don't Miss the Visual Cue
ACEP Scientific Assembly 2015
October 28th, 2015
Boston, Massachusetts
216. The Combative, Uncooperative Trauma Patient
ACEP Scientific Assembly 2015
October 28th, 2015
Boston, Massachusetts
217. How to Deploy a New Toy for Every Girl and Boy: Implementing a Simpler System for Treating Children
EAGLES – Best Practices in Street Medicine: Implementing the New Guidelines and Several Exceptional Innovations in Out-of-Hospital Emergency Cardiac Care
ECCU (Emergency Cardiovascular Care Update) 2015
December 9th, 2015
San Diego, California
218. Anxiolysis in Emergency Cardiac Care: 2015 Approaches to Safe Sedation
EAGLES – Best Practices in Street Medicine: Implementing the New Guidelines and Several Exceptional Innovations in Out-of-Hospital Emergency Cardiac Care
ECCU (Emergency Cardiovascular Care Update) 2015
December 9th, 2015
San Diego, California
219. Latest Drugs of Abuse: The Impact of Legalization of Marijuana and Testing of EMS Personnel
EMS Today (JEMS Conference and Exposition)
February 25th, 2016
Baltimore, Maryland
220. Chemical Suicides
EMS Today (JEMS Conference and Exposition)
February 25th, 2016
Baltimore, Maryland
221. Lightning Rounds: Ask the Eagles
EMS Today (JEMS Conference and Exposition)
February 26th, 2016
Baltimore, Maryland
222. Deliriously Yours: 2016 Approaches to Managing the Toxic Patients
First There First Care Regional EMS Conference
May 26th, 2016
Broward County, Florida

223. Promoting Post-Traumatic Provider Protection: Dealing with Depression, Anxiety, and Stress in EMS
First There First Care Regional EMS Conference
May 26th, 2016
Broward County, Florida
224. There Will Be Blood in the Streets: On-Scene Use of Plasma, Cells and Other Clot-Musters
First There First Care Regional EMS Conference
May 26th, 2016
Broward County, Florida
225. Trauma in Pregnancy
43rd Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 18th, 2016
Denver, Colorado
226. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Zuckerberg San Francisco General Hospital and Trauma Center Department of Medicine Grand Rounds
September 6th, 2016
San Francisco, California
227. Primum Non Nocere – to Yourself: Responding to the Malicious Mayhem of Mentally-ill Menaces
2016 ACEP Scientific Assembly – Advanced EMS Practitioner’s Forum and Workshop
October 15th, 2016
Las Vegas, Nevada
228. No Child (or Adult) Left Behind? The Complexities of Patient Refusal & Non-Transport Decisions
2016 ACEP Scientific Assembly – Advanced EMS Practitioner’s Forum and Workshop
October 15th, 2016
Las Vegas, Nevada
229. Taking the Pressure Off Sedation: Why Ketamine is My Pet Amine
2016 ACEP Scientific Assembly – Advanced EMS Practitioner’s Forum and Workshop
October 15th, 2016
Las Vegas, Nevada
230. Beyond the MVC: Burned, Blasted, and Bolted Trauma Victims
2016 ACEP Scientific Assembly
October 16th, 2016
Las Vegas, Nevada
231. Fast Facts: Let’s Chat About Trauma
2016 ACEP Scientific Assembly
October 16th, 2016
Las Vegas, Nevada
232. The Combative, Uncooperative, Trauma Patient

2016 ACEP Scientific Assembly

October 16th, 2016

Las Vegas, Nevada

233. Managing the Malicious Mayhem from Mentally Ill Menaces: The Evolving Roles of EMS in Active Shooter Incidents
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
234. Grass Roots Experience with Swedish Fish: A Token Presentation on Marijuana Legalization
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
235. Promoting Post-Traumatic Provider Protection: Dealing with Depression, Anxiety, and Stress in EMS
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
236. Minding Your P's and Q's: What are the Actual Cardiac Effects of Sedation Practices?
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
237. It's No Small Matter: Implementing a Simpler System for Treating Children
41st Annual Alaska EMS Symposium
November 4th, 2016
Anchorage, Alaska
238. Calling a Code Alert on our Mental Health: Suicide in EMS
2017 NAEMSP Annual Meeting and Scientific Assembly
January 26th, 2017
New Orleans, Louisiana
239. Child Abuse
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
240. Apparent Life-Threatening Events
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
241. Impact of Marijuana Legalization
2017 Iowa Emergency Medical Services Association Pediatric Conference
February 25th, 2017
Des Moines, Iowa
242. Myths in Pediatric Care
2017 Iowa Emergency Medical Services Association Pediatric Conference

February 25th, 2017

Des Moines, Iowa

243. Traumatic Shock

UCSF High Risk Emergency Medicine Conference

April 9th, 2017

Maui, Hawaii

244. Penetrating Abdominal Trauma

UCSF High Risk Emergency Medicine Conference

April 9th, 2017

Maui, Hawaii

245. The Combative, Intoxicated Trauma Patient: A Medical, Legal, and Ethical Conundrum!

UCSF High Risk Emergency Medicine Conference

April 9th, 2017

Maui, Hawaii

246. Geriatric Trauma

UCSF High Risk Emergency Medicine Conference

April 9th, 2017

Maui, Hawaii

247. Accidental Hypothermia

Wilderness Medicine: Avoiding and Managing Outdoor Medical Emergencies

UCSF Wilderness Medicine Medical School Elective and Mini Medical

School for the Public

April 26th, 2017

San Francisco, California

248. High Altitude Illness

Wilderness Medicine: Avoiding and Managing Outdoor Medical Emergencies

UCSF Wilderness Medicine Medical School Elective and Mini Medical

School for the Public

April 26th, 2017

San Francisco, California

249. Managing the Crashing, Combative Trauma Patient

High Risk Emergency Medicine San Francisco

June 1st, 2017

San Francisco, California

250. Imaging in Trauma

High Risk Emergency Medicine San Francisco

June 1st, 2017

San Francisco, California

251. Safe Sedation in the Era of Legalized Marijuana

National EMS Safety Summit

August 21st, 2017

Denver, Colorado

252. Safety in EMS – Panel Discussion

National EMS Safety Summit

August 22nd, 2017

Denver, Colorado

253. Lessons Learned from Active Shooter Scenarios
6th Annual Medical-Legal Forum
Mile High Regional Medical and Trauma Advisory Council
September 28th, 2017
Lakewood, Colorado
254. Integration and Challenges of Local, State and Federal Medical Surge Resources – Perspectives on the SFFW Full Scale Exercise and Asset Integration
Panelist – Medical Peer to Peer Exchange Seminar
San Francisco Fleet Week 2017
October 4th, 2017
San Francisco, California
255. Trauma STAT! Don't Miss This Visual Cue!
American College of Emergency Physicians (ACEP) Scientific Assembly
October 31st, 2017
Washington D.C.
256. FAST FACTS: Let's Chat About Adult Trauma
American College of Emergency Physicians (ACEP) Scientific Assembly
October 31st, 2017
Washington D.C.
257. Advanced Wound Care Closure in the ED: Putting the Pieces Back Together
American College of Emergency Physicians (ACEP) Scientific Assembly
October 31st, 2017
Washington D.C.
258. Pediatric Resuscitation is No Small Matter: 2017 Approaches to Managing Cardiac Events in Children
Emergency Cardiovascular Care Update (ECCU) 2017
December 5th, 2017
New Orleans, Louisiana
259. De-MS in EMS: Fentanyl versus Morphine for Chest Pain Management
Emergency Cardiovascular Care Update (ECCU) 2017
December 5th, 2017
New Orleans, Louisiana
260. Toxic Remarks: Case Studies of Cardiac Effects of Drugs of Abuse
Emergency Cardiovascular Care Update (ECCU) 2017
December 6th, 2017
New Orleans, Louisiana
261. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Grand Rounds – University of Michigan Department of Emergency Medicine
January 10th, 2018
Ann Arbor, Michigan
262. Better Mind Your P's and Q's: Subtle Cardiac Effects of Drugs of Abuse
EMS State of the Science: A Gathering of Eagles XX

March 2nd, 2018

Dallas, Texas

263. DeMSing EMS: Why I'd Get Rid of Morphine Sulfate

EMS State of the Science: A Gathering of Eagles XX

March 3rd, 2018

Dallas, Texas

264. A Grass Roots Experience: The Medical Implications of Marijuana Legalization in Colorado

ZSFG Medicine Grand Rounds

March 27th, 2018

San Francisco, California

265. Pitfalls in the Trauma Airway

UCSF High Risk Emergency Medicine Hawaii

April 9th, 2018

Maui, Hawaii

266. Challenging Trauma Case Panel

Moderator

UCSF High Risk Emergency Medicine

April 11th, 2018

Maui, Hawaii

267. Pitfalls in Patients with Stab Wounds

UCSF High Risk Emergency Medicine Hawaii

April 10th, 2018

Maui, Hawaii

268. Pitfalls in the Patient Found Down

UCSF High Risk Emergency Medicine Hawaii

April 10th, 2018

Maui, Hawaii

269. The Combative, Uncooperative Trauma Patient

SEMPA 360 – Society of Emergency Medicine Physician Assistants National Assembly

May 5th, 2018

San Antonio, Texas

270. Mass Casualty: Lessons Learned from the Colorado Shootings

SEMPA 360 – Society of Emergency Medicine Physician Assistants National Assembly

May 5th, 2018

San Antonio, Texas

271. The Medical Impact of Marijuana Legalization

SEMPA 360 – Society of Emergency Medicine Physician Assistants National Assembly

May 5th, 2018

San Antonio, Texas

272. Update on Urologic Emergencies

Moderator – Panel Discussion on Testicular Torsion, Priapism, and Penile Fracture

- American Urological Association (AUA) Annual Meeting 2018
May 20th, 2018
San Francisco, California
273. Assessing Capacity in the Intoxicated Trauma Patient
Keynote Address – 45th Annual Rocky Mountain Trauma and Emergency
Medicine Conference
June 7th, 2018
Vail, Colorado
274. Pitfalls in Patients with Stab Wounds
45th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 8th, 2018
Vail, Colorado
275. Trauma Panel of Experts
45th Annual Rocky Mountain Trauma and Emergency Medicine Conference
June 8th, 2018
Vail, Colorado
276. Cruising the Literature: Trauma 2018
American College of Emergency Physicians (ACEP) National Scientific
Assembly 2018
October 2nd, 2018
San Diego, California
277. Fast Facts: Let's Chat about Adult Trauma
American College of Emergency Physicians (ACEP) National Scientific
Assembly 2018
October 2nd, 2018
San Diego, California
278. ED Thoracotomy: When, Who, and How
American College of Emergency Physicians (ACEP) National Scientific
Assembly 2018
October 3rd, 2018
San Diego, California
279. Clear as Mud: C-Spine Clearance 2018
American College of Emergency Physicians (ACEP) National Scientific
Assembly 2018
October 3rd, 2018
San Diego, California
280. Grass-Roots Experience with Rocky Mountain Highs: What Marijuana
Legislation did for the C-States
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
281. How to De-Code the No-Load Mode: When a Patient Declines Transport
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida

282. Mitigating Child-Like Behaviors: Dismantling Major Myths of EMS Care for Kids
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
283. Not Just a Breathless Experience: The Cardiac Effects of Drugs of Abuse
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
284. Altered States of Mind – Part 1: Sedation Practices in EMS
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
285. Causalities for Caustic Cautions About Precautions: 2018 Approaches to Spinal Motion Restriction
South Florida EMS State of the Science
November 8th, 2018
Hollywood, Florida
286. On the Wings of Eagles – Hot Topics in EMS
Iowa EMS Association (IEMSA) Annual Meeting
November 9th, 2018
Des Moines, Iowa
287. Myths in Pediatric Care
Iowa EMS Association (IEMSA) Annual Meeting
November 10th, 2018
Des Moines, Iowa
288. Impact of Legalization of Marijuana on EMS/The Combative Intoxicated Patient
Iowa EMS Association (IEMSA) Annual Meeting
November 10th, 2018
Des Moines, Iowa
289. Intubation and Sedation of the Critically Ill Patient
High Risk Emergency Medicine 2019
February 19th, 2019
Honolulu, Hawaii
290. Transfer of the Trauma Patient
High Risk Emergency Medicine 2019
February 20th, 2019
Honolulu, Hawaii
291. Advanced Wound Care Closure in the ED
High Risk Emergency Medicine 2019
February 22nd, 2019
Honolulu, Hawaii
292. Persistent Injurious Concepts: Continuing Major Myths in Trauma Care
EMS State of the Science XXI: A Gathering of Eagles
March 1st, 2019

- Dallas, Texas
293. Electrocardiography 501: Subtle ECG Findings You Might Miss
EMS State of the Science XXI: A Gathering of Eagles
March 2nd, 2019
Dallas, Texas
294. The History of Emergency Medicine
San Diego Trauma Society
April 12th, 2019
San Diego, California
295. Trauma Literature 2019 – The Latest and Greatest
Grand Rounds: Mount Sinai Health System/Icahn School of Medicine
April 16th, 2019
New York, New York
296. Hypothermia and Cold Related Injury
2019 Wilderness Medicine Elective
UCSF School of Medicine
May 1st, 2019
San Francisco, California
297. High Altitude Illness
2019 Wilderness Medicine Elective
UCSF School of Medicine
May 1, 2019
San Francisco, California
298. Precautionary Cautions About Precautions: 2019 Approaches to Spinal Motion Restriction
Polk County Fire Rescue EMS Week 2019 Medical Seminar – Eagles
May 23rd, 2019
Orlando, Florida
299. Mitigating Child-Like Behaviors: Dismantling the Major Myths about Managing Maladies in Minors
Polk County Fire Rescue EMS Week 2019 Medical Seminar – Eagles
May 23rd, 2019
Orlando, Florida
300. Acing the Tracing Your Facing: Subtle ECG Findings You Don't Want to Miss
Polk Country Fire Rescue EMS Week 2019 Medical Seminar – Eagles
May 23rd, 2019
Orlando, Florida
301. Mass Casualty and Disaster Management – Lessons Learned from the Colorado Shootings
Grand Rounds – Department of Emergency Medicine
University Hospitals Cleveland Medical Center
June 13th, 2019
Cleveland, Ohio
302. High Altitude Illness
University Hospitals Cleveland Medical Center

June 13th, 2019
Cleveland, Ohio

303. Sedation of the Trauma Patient
University Hospitals Cleveland Medical Center
June 13th, 2019
Cleveland, Ohio
304. Mass Casualty and Disaster Management: Lessons Learned from the Colorado Shootings
Keynote address – 31st Annual David Miller Memorial Trauma Symposium
October 11th, 2019
Springfield, Missouri
305. The Combative, Uncooperative, Arrested, and Threatening Trauma Patient: A Legal, Ethical, and Medical Minefield
31st Annual David Miller Trauma Symposium
October 11th, 2019
Springfield, Missouri
306. Management of Pelvic Trauma – Binders, REBOA, and More!
American College of Emergency Physicians (ACEP) Scientific Assembly,
2019 [ACEP19]
October 28th, 2019
Denver, Colorado
307. Life Saving Procedures in Trauma
American College of Emergency Physicians (ACEP) Scientific Assembly,
2019 [ACEP19]
October 28th, 2019
Denver, Colorado
308. Cruising the Literature – Best Trauma Articles of 2019
American College of Emergency Physicians (ACEP) Scientific Assembly,
2019 [ACEP19]
October 29th, 2019
Denver, Colorado
309. Transfer of the Trauma Patient
Grand Rounds – Kaiser San Francisco
December 3rd, 2019
San Francisco, California
310. Management of Pelvic Fractures
Grand Rounds – Vanderbilt University Medical Center
December 17th, 2019
Nashville, Tennessee
- 311.

Certifications

- NRP, 2009
- ATLS, 2003
 - ATLS Instructor
 - November 18th, 2016
 - July 23rd, 2017
 - June 25th, 2018
 - June 24th, 2019
 - October 17th, 2019
- ACLS, 1996
- PALS, 1994
- ATLS instructor, 2010 – present
- BLS, 2016

Media

- Tales From the Front Lines - San Francisco Magazine – September, 2017
- How to Control Bleeding – The New York Times Magazine – April 22nd, 2018
- Skinned Knees to Broken Heads: Tracking Scooter Injuries – The New York Times – August 3rd, 2018
- Interview – NBC – Scooter injuries – August 8th, 2018
- Interview – San Francisco Chronicle – Scooter Injuries – August 11th, 2018
- Wines on a Plane: Does Drinking Affect You Differently While Flying? – Wine Spectator, August 21st, 2018
- National Public Radio (NPR) segment – Heat Related Emergencies – October, 2018
- Interview – KPIX TV Channel 5 – Scooter injuries - January 25th, 2019
- Interview – San Francisco Chronicle – Scooter Injuries – January 26th, 2019
- Interview – RTV6 Indianapolis – Marijuana use kills Indiana teen, mother speaks out. Stephanie Wade, April 11, 2019
(<https://www.theindychannel.com/news/working-for-you/marijuana-use-kills-indiana-teen-mother-speaks-out>)
- Interview – The New Yorker – Twenty years after Columbine. Michael Luo, April 20th, 2019. (<https://www.newyorker.com/news/news-desk/twenty-years-after-columbine>)
- Interview – Fox KTVU Channel 2 – San Francisco averaged one fentanyl overdose death a week last year. Amber Led, June 25th, 2019

(<http://www.ktvu.com/news/ktvu-local-news/san-francisco-averaged-one-fentanyl-overdose-death-a-week-last-year>)

- Patients Leaving AMA: Signed Forms Alone Are Not Sufficient Malpractice Defense. ED Legal Letter, Volume 30, No. 8, p. 85-88, August, 2019
- Interview – San Francisco Chronicle – Psychiatric patients in the ED. August 15, 2019
- Interview – San Francisco Examiner – ED Diversion – September 26th, 2019
- Interview – San Francisco Chronicle – Emergency department management of substance abuse – November 5th, 2019
- Interview – KTVU Channel 2 Morning News (Mornings on 2) – Holiday mishaps – December 20th, 2019 https://sfgov1-my.sharepoint.com/:v/r/personal/maricella_miranda_sfdph_org/Documents/Media/KTVU%20Chris%20Colwell_ED%20holidays_2019/IMG_0571.MOV?csf=1&e=RQGwJN
-

Additional Activities

- American Board of Emergency Medicine (ABEM) Oral Board Examiner
 - October 8-11, 2016
 - October 14-17, 2017
 - October 13-16, 2018
 - October 5-8, 2019
- President, Sigma Phi Epsilon fraternity, Ann Arbor, MI 1987-1988
Active Member: 1984-1988
- Varsity Tennis, University of Michigan, Ann Arbor, MI 1984-1988
Big Ten Team Champions: 1985, 1986, 1988. NCAA Team Semifinals: 1988
- Psi Chi Honor Society 1987-1988
- Captain, Varsity Tennis Team, La Jolla High School, La Jolla, CA
- Michigan Alumnae Scholarship recipient, San Diego Chapter 1984-1985

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Firearms*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JAMES MILLER, et al.,

Plaintiffs,

v.

**CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA,
et al.,**

Defendants.

19-cv-1537 BEN-JLB

**DECLARATION OF PROFESSOR
JOHN J. DONOHUE IN SUPPORT
OF DEFENDANTS' OPPOSITION
TO MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF PROFESSOR JOHN J. DONOHUE

I, John J. Donohue, declare:

1. I am a professor and researcher, who has written extensively on crime, guns, and the impact of gun policies. I make this declaration in support of Defendants' opposition to Plaintiffs' motion for a preliminary injunction. This declaration is based on my own personal knowledge and experience, and if called as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

BACKGROUND AND QUALIFICATIONS

2. I am the C. Wendell and Edith M. Carlsmith Professor of Law at Stanford Law School. (A copy of my complete cv is attached as Exhibit A.) After earning a law degree from Harvard and a Ph.D. in economics from Yale, I have been a member of the legal academy since 1986. I have previously held tenured positions as a chaired professor at both Yale Law School and Northwestern Law School. I have also been a visiting professor at a number of prominent law schools, including Harvard, Yale, the University of Chicago, Cornell, the University of Virginia, Oxford, Toin University (Tokyo), St. Gallens (Switzerland), and Renmin University (Beijing).

3. At Stanford, I regularly teach a course on empirical law and economics issues involving crime and criminal justice, and I have previously taught similar courses at Yale Law School, Tel Aviv University Law School, the Gerzensee Study Center in Switzerland, and St. Gallen University School of Law in Switzerland, and will teach such a course at the Universidad del Rosario in Bogota, Colombia in June 2020.

4. Since gun crime is such an important aspect of overall American crime, my courses evaluate both the nature of gun regulation in the United States

1 and the impact of gun regulation on crime. This topic is an important part of my
 2 research, about which I have published extensively (as reflected in my c.v.). I have
 3 also consistently taught courses on law and statistics for two decades.

4 5. I am a Research Associate of the National Bureau of Economic
 5 Research, and a member of the American Academy of Arts and Sciences. I was a
 6 Fellow at the Center for Advanced Studies in Behavioral Sciences in 2000-01 and
 7 served as the co-editor (handling empirical articles) of the American Law and
 8 Economics Review for six years. I have also served as the President of the
 9 American Law and Economics Association and as Co-President of the Society of
 10 Empirical Legal Studies.

11 6. From 2011-2018, I served on the Committee on Law and Justice of the
 12 National Research Council ("NRC"), which "reviews, synthesizes, and proposes
 13 research related to crime, law enforcement, and the administration of justice, and
 14 provides an intellectual resource for federal agencies and private groups." (See
 15 <http://www7.national-academies.org/claj/> online for more information about the
 16 NRC.)

17 7. I filed an expert declaration in each of two cases challenging city
 18 restrictions on the possession of large-capacity magazines: *Fyock v. City of*
 19 *Sunnyvale*, United States District Court (N.D. Cal.), January 2014; *Herrera v. San*
 20 *Francisco*, United States District Court (N.D. Cal.), January 2014.

21 8. I also filed an expert declaration in a case involving a challenge to
 22 Maryland's restrictions on assault weapons and large-capacity magazines: *Tardy v.*
 23 *O'Malley*, United States District Court (District of Maryland), February 2014. I
 24 filed an expert declaration, and provided expert testimony, in response to a motion
 25 for a preliminary injunction in a case involving a challenge to New Jersey's
 26 restrictions on large-capacity magazines in *Association of New Jersey Rifle & Pistol*
 27 *Clubs, Inc. v. Grewal*, No. 3:18-cv-10507-PGS-LHG (D.N.J.)
 28

1 generates any benefit by stopping public mass shootings and is indeed self-
 2 defeating since it generates substantial increases in violent crime.¹

3 13. It is a sound, evidenced-based, and longstanding harm-reducing
 4 strategy virtually uniformly embraced throughout the developed world for
 5 governments to place constraints on weaponry that exceeds a certain level of
 6 deadliness that is inappropriate for civilian use because of its substantial social cost.
 7 Restrictions on weaponry most suitable for battlefield use (and unsuitable for
 8 civilian self-defense) – such as those prohibited under California’s assault weapons
 9 ban – sit comfortably in this appropriate regulatory approach and can be expected to
 10 reduce deaths and injury from gun violence. Indeed, gun massacres fell
 11 substantially during the ten years of the federal assault weapons ban, and then rose
 12 sharply when the ban was lifted in 2004. FBI data show that the problem of active
 13 shooters inflicting mayhem on the public has been rising substantially since the end
 14 of the federal assault weapons ban.

15 14. One of the factors that led to the selection of assault rifles for use by
 16 the U.S. military was that they could generate such devastating and lethal wounds
 17 on the battlefield. This very fact underscores why any serious effort to reduce the
 18 death toll and the proliferation of the damaging wounds from mass shootings would
 19 seek to remove these weapons from the arsenal available to those who would turn
 20 them on the public.

21 15. Bans on assault weapons have little or no effect on the ability of
 22 individuals to possess weapons for self-defense in the home but should have a
 23 restraining impact on the effectiveness of those who have the criminal intent to kill
 24 as many individuals as possible. The assault weapons ban is thus well-tailored to
 25 limit the behavior of criminals engaging in the most dangerous forms of violent

26 _____
 27 ¹ See Donohue, John, Abhay Aneja, and Kyle Weber, 2019, “Right-to-Carry Laws and
 28 Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic
 Control Analysis,” *Journal of Empirical Legal Studies*,
<https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12219>.

1 criminal behavior, without impairing the defensive capabilities of law-abiding
2 citizens. Indeed, these weapons can injure or kill third parties hundreds of yards
3 away, when the necessary range for self-defense in the home is usually measured in
4 feet. Moreover, to the extent these weapons impose greater risks to law
5 enforcement, one would expect that their presence would encumber and endanger
6 police, while diminishing police effectiveness in ways that would put upward
7 pressure on crime generally.

8 16. The empirical evidence supports the conclusion that if, rather than
9 allowing the federal assault weapons ban to lapse in 2004, the country had moved
10 to a more complete ban, many of the gun tragedies of recent years would have been
11 far less deadly and damaging to countless individuals who have been maimed and
12 injured throughout the United States. California's ban on assault weapons is one
13 tool in the important governmental effort to reduce the likelihood that Californians
14 will be killed in mass shootings by making it incrementally harder for prospective
15 mass shooters to equip themselves with weapons that are both uniquely appealing
16 to their criminal aspirations as well as uniquely designed to aid in their homicidal
17 rampages.

18 17. Most Americans do not own guns, and most Americans who do own
19 guns do not own assault weapons. Both statements are particularly true for
20 Californians.

21 18. The fact that most Americans favor bans on assault weapons
22 underscores the fact that only a relatively small minority of Americans owns or
23 values these weapons.

24 19. The current level of assault weapons in circulation in the nation has no
25 bearing on the ability of the state of California to address the socially damaging and
26 worsening problem of public mass shooting. A federal ban on assault weapons did,
27 and could in the future, significantly curtail mass shooting deaths by limiting the
28 number of assault weapons in circulation.

OPINIONS

20. While the precise number of Americans who own assault weapons nationally is uncertain,² it is clear that most gun-owners do not possess these types of weapons. First of all, most Americans do not own guns – 70-75 per cent of adults do not own any firearm according to recent survey data.³

21. Second, since assault weapons are only a small fraction of the overall gun supply in the United States, it is clear that most Americans who do own guns do not own assault weapons. Both statements are particularly true for Californians, where only 1 in 7 adults (roughly 14 percent) owns a gun, and of course far fewer have grandfathered assault weapons.⁴

22. The fact that a substantial majority of Americans favor bans on assault weapons underscores the fact that only a relatively small minority of Americans owns these weapons, and that most Americans recognize that assault weapons are not important to their self-defense.

23. The support for bans on assault weapons has remained consistently strong over the last five years. A poll conducted for the New York Times from June 17-20, 2016 among a national sample of 1975 registered voters found that 67 percent of Americans favored such a ban. Importantly, the New York Times also

² Kate Irby, “Nobody knows exactly how many assault rifles exist in the U.S. – by design,” *McClatchy*, February 23, 2018, <https://www.mcclatchydc.com/news/nation-world/national/article201882739.html>. References to the number of guns manufactured in or imported into the U.S. are misleading since they fail to distinguish between guns provided to the military or guns subsequently transported, legally or illegally, to other countries. We know that the U.S. is a major supplier of assault weapons to drug gangs in Mexico, Brazil, and throughout Latin America.

³ Lydia Saad, What Percentage of Americans Own Guns? <https://news.gallup.com/poll/264932/percentage-americans-own-guns.aspx>; <https://www.washingtonpost.com/news/monkey-cage/wp/2018/05/07/americans-vastly-overestimate-the-number-of-gun-owners-thats-a-problem/>.

⁴ Andrew Sheeler, “Gun control isn’t stopping Californians from owning firearms, new study says,” *The Sacramento Bee*, December 6, 2019, (<https://www.sacbee.com/news/california/article238113499.html>).

1 polled “32 current or retired academics in criminology, public health and law, who
2 have published extensively in peer-reviewed academic journals on gun policy” to
3 ask them what measures would be most effective in dealing with America’s mass
4 shooting problem, and an assault weapons ban was deemed overall by this panel to
5 be the single most effective measure.⁵

6 24. Less than a year later, a Pew Research Center survey among 3,930
7 adults (conducted from March 13-27 and April 4-18, 2017) again showed broad
8 opposition to assault weapons.⁶

9 25. The Pew survey results released on October 18, 2018 again showed
10 that 67 percent of Americans favored bans on assault weapons and on high-capacity
11 magazines.⁷ The same Pew survey based on interviews from September 3 – 15,
12 2019 showed that 69 percent of Americans supported a ban on assault weapons.⁸

13 **Weapons Restrictions Have Historically Followed Growing Criminal Abuse**

14 26. Restrictions on weaponry have historically followed growing criminal
15 abuse and social harm, rather than at the time these weapons are first introduced.
16 This makes sense because it is not always clear at the outset which inventions will

17 ⁵ The list of 32 academics included not only me, but also many strong gun-rights
18 supporters, including John Lott, who is Plaintiffs’ proffered expert in this case, Gary Kleck,
19 David Kopel, Carlisle E. Moody, and Eugene Volokh. See, Margot Sanger-Katz And Quoc Trung
20 Bui, “How to Reduce Mass Shooting Deaths? Experts Rank Gun Laws,” *New York Times*,
October 5, 2017, <https://www.nytimes.com/interactive/2017/10/05/upshot/how-to-reduce-mass-shooting-deaths-experts-say-these-gun-laws-could-help.html>.

21 ⁶ Ruth Igielnik and Anna Brown, “Key takeaways on Americans’ views of guns and gun
22 ownership,” Pew Research Center, June 22, 2017, <http://www.pewresearch.org/fact-tank/2017/06/22/key-takeaways-on-americans-views-of-guns-and-gun-ownership/>. The authors
23 noted that this poll was conducted *prior* to two of the five deadliest mass shootings in modern US
24 history, which occurred in October and November of 2017: “a staggering [59] people were killed
and more than 500 were hurt when [Steven Paddock] opened fire on a Las Vegas concert and at
least 26 people were killed in a Texas church” only five weeks later.

25 ⁷ Pew Research Center, “Gun Policy Remains Divisive, But Several Proposals Still Draw
26 Bipartisan Support,” October 18, 2018, <http://www.people-press.org/2018/10/18/gun-policy-remains-divisive-but-several-proposals-still-draw-bipartisan-support/>. This survey had 5307
respondents and was conducted from September 24 through October 7, 2018.

27 ⁸ Katherine Schaeffer, “Share of Americans who favor stricter gun laws has increased
28 since 2017,” <https://www.pewresearch.org/fact-tank/2019/10/16/share-of-americans-who-favor-stricter-gun-laws-has-increased-since-2017/> (October 16, 2019).

1 lead to adverse impacts on public safety. Frequently, the dangers of products and
 2 practices fly below the radar until their proliferation generates sufficient social
 3 damage to enable the public and the scientific community to become aware of the
 4 full extent of their social harm.

5 27. The first group of state restrictions on weapons deemed inappropriate
 6 for civilian use were adopted in the 1920s and 1930s after weapons like the Tommy
 7 gun became a preferred weapon for gangsters.⁹ More recently, the sharp increases
 8 in crime in the 1980s as more powerful weaponry started to proliferate led to a
 9 second round of restrictions limiting magazine capacity and banning assault
 10 weapons, including the now expired ten-year federal assault weapons ban of 1994-
 11 2004.¹⁰ State restrictions continued to be adopted following the expiration of the
 12 federal ban, often in direct response to public mass shootings.

13 **The Problem of Public Mass Shootings in the United States Is Serious**

14 28. Any discussion of assault weapons must address the tragic problem of
 15 public mass shootings. While some diminish the importance of governmental action
 16 to address this problem by arguing that the deaths from mass shootings are only a
 17 relatively small portion of the total homicides in the United States, this point is
 18 misguided for three reasons: the deaths and injuries caused by mass shootings are
 19 increasing at an alarming pace, the social harm from these traumatic events is far
 20 larger than the mere numerical casualty counts, and the incessant efforts to enhance
 21 the deadliness of firearms to increase gun sales means that, if this deadly arms race
 22 is not restrained, mass shootings with deaths of many hundreds of individuals may
 23 well be our fate. This growing menace cannot be effectively addressed without
 24 concerted and effective governmental action, including bans on assault weapons
 25 and high-capacity magazines. I discuss these issues further below.

26 ⁹ See Robert J. Spitzer, *Gun Law History in the United States and Second Amendment*
 27 *Rights*, 80 Law & Contemp. Probs. 55, 68 (2017).

28 ¹⁰ See 1990 N.J. Sess. Law Serv. 32 (West); Haw. Rev. Stat. Ann § 34–(8); Pub. L. 103–
 322, § 110103 (Sep. 13, 1994).

The Growing Problem of Public Mass Shootings

29. Although the long-term secular trend in overall crime has been benign over the last 25 years, the opposite is true for the trend in public mass shootings. As the Third Circuit stated in upholding New Jersey’s restrictions on high-capacity magazines, “plaintiffs attempt to discount the need for [governmental weaponry restrictions] by describing mass shootings as rare incidents” gives insufficient weight “to the significant increase in the frequency and lethality of these incidents.” *Association Of New Jersey Rifle and Pistol Clubs v. Attorney General of New Jersey* (3d Cir., December 5, 2018).

30. According to a report of the Congressional Research Service, there were an average of 2.7 events public mass shootings per year in the 1980s rising to an average of 4.5 events per year from 2010 to 2013.¹¹ Since then things have only gotten worse.

31. Writing in May 2018, Louis Klarevas, an Associate Lecturer of Global Affairs at the University of Massachusetts–Boston, noted:

“Last week's school shooting in Texas marks a new milestone in American history. It's the first time we have ever experienced four gun massacres resulting in double-digit fatalities within a 12-month period. In October 2017, [59] were killed at a concert in Las Vegas. A month later, 26 were killed at a church in Sutherland Springs, Texas. Earlier this year, 17 people lost their lives at a high school in Parkland, Fl. And to this list we can now add the 10 people who lost their lives at a high school in Santa Fe, Texas.”¹²

¹¹William J. Krouse & Daniel J. Richardson, Cong. Research Serv., R44126, *Mass Murder with Firearms: Incidents and Victims, 1999-2013*, at 14-15 (2015), <http://fas.org/sgp/crs/misc/R44126.pdf> [<http://perma.cc/RC4C-SP48>]; Mark Follman, “Yes, Mass Shootings Are Occurring More Often,” *Mother Jones* (Oct. 21, 2014, 5:05 am), <http://www.motherjones.com/politics/2014/10/mass-shootings-rising-harvard>

¹²Louis Klarevas, “After the Santa Fe massacre, bury the 'good guy with a gun' myth: Armed staffers won't deter shooters or keep kids safe,” *New York Daily News*, May 22, 2018,

(continued...)

1 32. In response to the growing list of gun tragedies, President Obama
2 signed into law in 2013 the Investigative Assistance for Violent Crimes Act of
3 2012, which granted authority to the U.S. Attorney General to assist in the
4 investigation of “violent acts and shootings occurring in a place of public use” and
5 in the investigation of “mass killings and attempted mass killings.”¹³

6 33. To better understand the nature of these threats, the Federal Bureau of
7 Investigation (FBI) in 2014 initiated a study of “active shooter” incidents designed
8 to identify the prevalence of and trend in these events, how they unfolded, what
9 brought them to an end, and other details that would be of assistance to law
10 enforcement (Id.).¹⁴

11 34. The latest data from the FBI underscores that the active shooter
12 problem in the United States is growing, as illustrated in the following figure¹⁵:
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14
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16
17
18
19
20

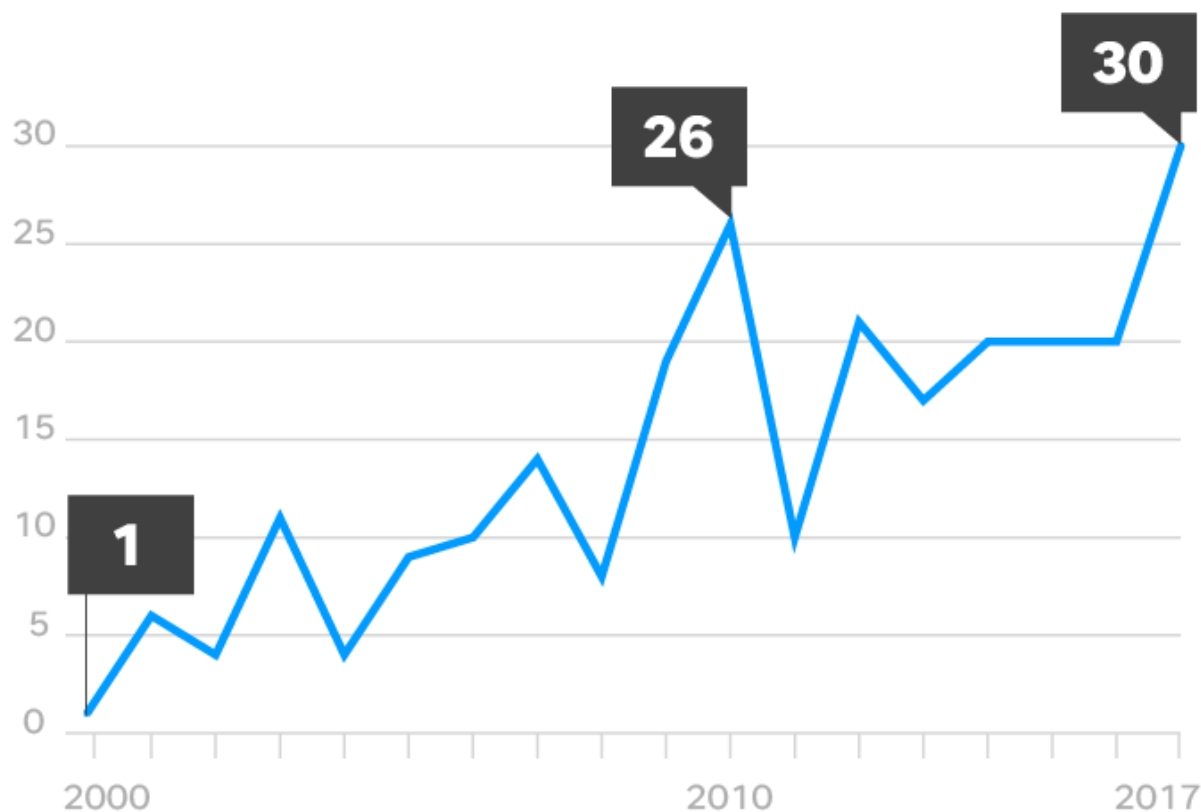
21
22 <http://www.nydailynews.com/opinion/santa-fe-massacre-bury-good-guy-gun-myth-article-1.4003952>

23 ¹³Blair, J. Pete, and Schweit, Katherine W. (2014). “A Study of Active Shooter Incidents,
24 2000 - 2013.” Texas State University and Federal Bureau of Investigation, U.S. Department of
Justice, Washington D.C. 2014, at 4.

25 ¹⁴ Note that if an active shooter bent on inflicting widespread casualties is stopped quickly
26 enough, this incident would not appear in a count of “public mass shootings” that required, say, at
least four individuals to be shot and killed, not counting the shooter (which is a standard, although
not the only, definition of a mass shooting).

27 ¹⁵ <https://www.usatoday.com/story/news/2018/06/20/fbi-most-active-shooters-dont-have-mental-illness-get-guns-legally/718283002/>
28

Active shooter incidents on the rise, with 2017 topping all years since 2000.



SOURCE FBI data and the FBI's report on active shooter incidents in the United States in 2016 and 2017

35. The ominous and steep upward trend in the FBI data charting the growth in active shooter incidents is unmistakable. Not surprisingly, the number of mass shootings clearly is higher following the termination of the federal assault weapons ban in 2004. Indeed, the FBI noted in its 2014 active shooter report that from 2000-2006 there were 6.4 active shooter incidents per year and that from 2007-2013 that number rose to 16.4 per year. The mayhem accelerated in 2014 and

2015, during which 20 incidents occurred each year,¹⁶ and jumped further to 25 in 2016 and 30 in 2017.¹⁷

36. In addition to the well-documented increase in overall public mass shootings in the United States, there has been an equally dramatic rise of these events in school settings.¹⁸ Indeed, the authors of a recent study on mass school shootings concludes that “More people have died or been injured in mass school shootings in the US in the past 18 years than in the entire 20th century.”¹⁹ The impact of the elevated stress experienced by students and parents across the country as the reality of America’s tragic mass shooting problem penetrates their consciousness is undeniable. While these horrendous gun massacres are relatively rare, each one harms tens of millions beyond those killed or wounded at the scene.

What Public Policy Measures Can Address This Growing Menace?

37. Permitting “law-abiding citizens” to acquire assault weapons, as Plaintiffs urge, is not an effective public policy solution to the growing and very serious problem of mass shootings.

38. The FBI’s analysis of active shooters over age 18 found that 65 percent had no adult convictions prior to the active shooting event.²⁰ In other words, most active shooters are “law-abiding citizens” in the jargon of the

¹⁶ FBI, “Active Shooter Incidents in the United States in 2014 and 2015,” https://www.fbi.gov/file-repository/activeshooterincidentsus_2014-2015.pdf/view.

¹⁷ FBI, “Active Shooter Incidents in the United States in 2016 and 2017,” <https://www.fbi.gov/file-repository/active-shooter-incidents-us-2016-2017.pdf/view>.

¹⁸ Antonis Katsiyannis, Denise K. Whitford, Robin Parks Ennis. Historical Examination of United States Intentional Mass School Shootings in the 20th and 21st Centuries: Implications for Students, Schools, and Society. *Journal of Child and Family Studies*, 2018; DOI: 10.1007/s10826-018-1096-2.

¹⁹ Springer. “Rapid rise in mass school shootings in the United States, study shows: Researchers call for action to address worrying increase in the number of mass school shootings in past two decades.” ScienceDaily. ScienceDaily, 19 April 2018. <www.sciencedaily.com/releases/2018/04/180419131025.htm>.

²⁰ Silver, J., Simons, A., & Craun, S. (2018). A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 – 2013. Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535.

1 complaint in this case— until they launch their homicidal rampages. Moreover, the
 2 FBI report found that only a tiny fraction would have qualified as “adjudicated
 3 mental defectives” that would have been barred from possessing weapons.²¹ In
 4 other words, the lack of a basis for prohibiting gun ownership under current law for
 5 most active shooters means that tighter background checks would not have likely
 6 blocked their homicidal objectives.

7 39. The Wall Street Journal analyzed data from the 32 school shootings
 8 since 1990 with at least three victims dead or injured.²² In 25 cases, the shooters
 9 were in their teens or younger. Of the 20 cases in which information was available,
 10 17 of the shooters obtained their guns from their home or a relative. In other words,
 11 teens who are not eligible to possess assault weapons may take weapons from
 12 relatives who legally possess assault weapons in the home to commit mass
 13 shootings.

14 40. Nor can we hope to limit these horrific crimes by elevating the
 15 probability of apprehending mass shooters once their crime is completed since
 16 almost all mass killers are either captured, commit suicide, or are killed at the
 17 scene.²³

18 41. Indeed, it was the availability of weapons to these individuals that
 19 enabled them to initiate such deadly attacks. Both common sense and consistent
 20 empirical evidence show that there is a strong instrumentality effect in violent
 21

22 ²¹ The Gun Control Act of 1968 prohibits gun possession by felons and adjudicated
 “mental defectives” (18 U.S.C. §922 (d) (4) 2016).

23 ²² Tawnell D. Hobbs, “Most Guns Used in School Shootings Come From Home,” (April
 24 5, 2018), <https://www.wsj.com/articles/in-school-shootings-most-guns-come-from-home-1522920600>

25 ²³ According to the FBI, in 156 of the 160 episodes, the mass shooter was either captured,
 26 committed suicide (64 cases), or was killed (30 cases). Blair, J. Pete, and Schweit, Katherine W.
 27 (2014). “A Study of Active Shooter Incidents, 2000 - 2013.” Texas State University and Federal
 28 Bureau of Investigation, U.S. Department of Justice, Washington D.C. 2014. Of course, those
 who are captured alive are already punished as severely as the law allows, and the abundant
 number of mass shootings in Texas and Florida highlights the inefficacy of the death penalty in
 addressing this problem.

1 activity. Attacks with fists are less dangerous than attacks with knives which in turn
 2 are less dangerous than attacks with guns. Recent evidence has confirmed this
 3 commonsense finding one step further by showing that the enormous range of
 4 firearm lethality.

5 42. A very careful study of files of 511 gunshot victims kept by the Boston
 6 Police Department revealed survivability from gunshot wounds varied considerably
 7 based on attributes of the weapon and ammunition that generated the wound. The
 8 authors calculated that switching to less deadly firearm options could reduce the
 9 homicide rate substantially.²⁴

10 43. Note the contrast of a school attack in China that occurred only hours
 11 before Adam Lanza used an assault weapon armed with 30 round magazines to kill
 12 26: while 22 children and an adult were injured in the attack in China, no one died
 13 – a likely result, at least in part, of the attacker using a knife instead of an assault
 14 weapon.²⁵

15 44. In civilian life, using an assault weapon for self-defense is over-kill, as
 16 an emergency room doctor treating the pulverized victims from the Parkland
 17 shooting describes.²⁶ The CBS show 60 Minutes also provided a dramatic
 18 experiment to illustrate the far more destructive impact on human tissue of being
 19 shot with an AR-15 than a handgun, as seen in the referenced video “What Makes
 20 the AR-15 so Deadly?”²⁷

21 45. In light of this and the limited other public policy options designed to
 22 curtail the death and injury toll from public mass shootings, an important tool in

23 ²⁴ Anthony A. Braga and Philip J. Cook, “The Association of Firearm Caliber With
 24 Likelihood of Death From Gunshot Injury in Criminal Assaults,” *JAMA Netw*
 25 *Open*. 2018;1(3):e180833. doi:10.1001/jamanetworkopen.2018.0833.

26 ²⁵ Mallory Ortberg, “Man Arrested in China After Knife Attack on Students,”
<http://gawker.com/5968740/man-arrested-in-china-after-knife-attack-on-students>.

27 ²⁶ Heather Sher, “What I Saw Treating the Victims from Parkland Should Change the
 Debate on Guns,” *The Atlantic*, February 2018, <https://www.theatlantic.com/amp/article/553937/>

28 ²⁷ <https://www.cbsnews.com/news/ar-15-used-mass-shootings-weapon-of-choice-60-minutes-2019-06-23/>.

1 trying to reduce the harm these mass killers can commit is to reduce the destructive
2 power of the weaponry that they already have or can acquire through purchase or
3 theft, which is the central goal of California's ban on assault weapons and high
4 capacity magazines.

5 46. Public policy also disfavors civilians carrying of assault weapons for
6 the purpose of potentially stopping public shootings, for two reasons. First,
7 stopping a mass shooting is a perilous endeavor and untrained individuals likely
8 added more to the mayhem than they have been able to curtail. Second, the best
9 evidence suggests that increased gun carrying in the population leads to higher rates
10 of violent crime, so the alleged remedy to the problem of mass shootings comes at a
11 very steep price. These points are spelled out in detail in my work estimating the
12 impact of laws allowing citizens to carry concealed handguns on crime.²⁸

13 47. On the first point, an FBI study of 160 active shooter incidents found
14 that in almost half (21 of 45) of the situations in which police engaged the shooter
15 to end the threat, law enforcement suffered casualties, totaling nine killed and 28
16 wounded. One would assume the danger to an untrained permit holder trying to
17 confront an active shooter would be greater than that of a trained professional,
18 which may in part explain why effective intervention in such cases by permit
19 holders to thwart crime is so rare. While the same FBI report found that in 21 of a
20 total of 160 active shooter incidents between 2000 and 2013, "the situation ended
21 after unarmed citizens safely and successfully restrained the shooter," there was
22 only one case – in a bar in Winnemucca, Nevada in 2008 – in which a private citizen
23 other than a security guard, who was armed with a handgun, stopped a shooter, and
24 that individual was an active-duty Marine.²⁹

25 48. Moreover, even well-intentioned interventions by permit holders
26 intending to stop a crime have elevated the crime count when they ended with the

27 ²⁸ See Donohue et al, note 1, *supra*.

28 ²⁹ See, *id.* at 8 for the details on these issues.

1 permit holder either being killed by the criminal or shooting an innocent party by
2 mistake.³⁰

3 49. On the second point, the notion of arming the populace to stop public
4 mass shootings must contend with the consequences of increasing gun carrying.
5 Here the best evidence shows that the increased gun carrying that follows from state
6 adoption of right-to-carry (RTC) laws leads to increases in violent crime of from
7 13-15 percent over the ensuing ten years. In other words, any attempt to curtail
8 public mass shootings with more gun carrying will result in an array of unforeseen
9 and unwanted consequences ranging from more gun thefts and added burdens on
10 law enforcement to more unlawful use of weapons that on balance increases violent
11 crime substantially.³¹

12 **The Far-Reaching Costs of Public Mass Shootings**

13 50. The large number of overall gun homicides compared with mass
14 shootings should not obscure that major public mass shootings cause profound
15 social damage. This harm of course includes the tragic deaths and extraordinarily
16 devastating injuries, but extends far beyond these mere statistical counts of the dead
17 and injured. Public mass shootings are particularly high-visibility events that are
18 quite shocking to the public and unsettling to the sense of public safety. Horrific
19 mass shootings – such as those perpetrated by Adam Lanza at Sandy Hook School
20 (killing 26), Stephen Paddock in Las Vegas (killing 59 and shooting 422 others), or
21 by ISIS sympathizers at Inland Regional Center in San Bernardino (killing 14)³² and
22 at Pulse in Orlando (killing 49)³³ or at various houses of worship in Charleston,

24 ³⁰ See, id. at notes 15 and 16 for relevant cases of harmful interventions by permit holders.

25 ³¹ Id.

26 ³²Christine Hauser, San Bernardino Shooting: The Investigation So Far, N.Y. Times (Dec.
4, 2015), <http://www.nytimes.com/2015/12/05/us/san-bernardino-shooting-the-investigation-so-far.html> (noting fourteen were killed in December 2015).

27 ³³Gregor Aisch et al., What Happened Inside the Orlando Nightclub, N.Y. Times (June 12,
28 2016), <http://www.nytimes.com/interactive/2016/06/12/us/what-happened-at-the-orlando-nightclub-shooting.html> (noting a gunman killed forty-nine in a June 2016 attack).

1 South Carolina (killing 9), Sutherland Springs, Texas (killing 26), and Pittsburgh,
 2 Pennsylvania (killing 11) – although small in number compared to the total number
 3 of homicides, have generated widespread apprehension and increased demand for
 4 effective responses from government. It is abundantly clear that the horrors of a
 5 mass shooting such as the killing of 20 students and 6 teachers at Sandy Hook
 6 Elementary School in Newtown, Connecticut in December 2012 inflicted
 7 psychological distress far beyond the contours of that small community and indeed
 8 caused suffering throughout the state and indeed the entire country (and the world).

9 51. A considerable scientific literature has documented the significant
 10 emotional and mental health harms that mass shootings inflict on survivors,
 11 community members, wounded victims, active responders, and children. The
 12 consistent finding of these studies is that mass shootings can lead to increased
 13 levels of post-traumatic stress disorder (PTSD), anxiety, and depression.³⁴ For
 14 example, on February 14, 2008, Steven Kazmierczak opened fire in a crowd of
 15 Northern Illinois University students, killing 5 people and wounding 17 more
 16 before killing himself. This shooting led to dramatic increases in the levels of post-
 17 traumatic stress (PTS) symptoms in a sample of Northern Illinois University
 18 students.³⁵

21 ³⁴ Shultz, James M., Siri Thoresen, Brian W. Flynn, et al. 2014. "Multiple Vantage Points
 22 on the Mental Health Effects of Mass Shootings." *Current Psychiatry Reports*. 16:469. To
 23 complete this meta-analysis of the scientific literature from 2010 to early 2014, the authors
 24 searched the PUBMED, SCOPUS, PILOTS, PSYCINFO, and CINAHL databases using
 25 combinations of terms for mass shooting incidents with MeSH (Medical Subject Heading)
 26 vocabulary on mental health.

27 ³⁵ Bardeen, Joseph R., Mandy J. Jumpula, and Holly K. Orcutt. 2013. "Emotional
 28 regulation difficulties as a prospective predictors of posttraumatic stress symptoms following a
 mass shooting." *Journal of Anxiety Disorders* 27, no.2 (March): 188-196. This longitudinal study
 assessed the presence of PTS symptoms in a sample of female undergraduates at Northern Illinois
 University at three time points: T1, the starting period (pre-shooting) (n=1,045), T2, short term
 post-shooting (17-100 days post-shooting, n=691), and T3, roughly 7-8 months post-shooting
 (n=588). In the sample of 691 students that were assessed at T1 and T2, clinically significant
 levels of PTS rose from 20% pre-shooting to almost 50% post-shooting.

52. Similar findings of the broad social damage from mass shootings were also documented in three studies of the broader harm from the 2011 Norway shooting, when Anders Breivik killed 67 people and wounded at least 32. Four to five months following the shooting, survivors were six times more likely to exhibit elevated PTS symptoms compared to an age- and gender-adjusted sample derived from the overall population.³⁶ But the psychic trauma was not limited to the victims and survivors of mass shootings. Two additional studies, which focused on the broader harm to the surrounding community following the Breivik shooting in Norway, found measurable increases in stress reactions in the general population, with the effects especially strong for young people with a prior history of trauma.³⁷

53. More generally, survivors of serious gunshot injuries and multiple victim incidents involving intentionally inflicted harm are at higher risk of experiencing PTS symptoms.³⁸

³⁶ Dyb, Grete, Tine K. Jensen, Egil Nygaard, et al. 2014. "Post-traumatic stress reactions in survivors of the 2011 massacre on Utoya Island, Norway." *The British Journal of Psychiatry* 204, no. 5 (May): 361-367. Of the 490 survivors from the Utoya shooting invited to participate in the study, 325 agreed. Semi-structured face-to-face interviews were conducted by health personnel approximately 4-5 months after the shooting.

³⁷ Thoresen, Siri, Helene Flood Aakvaag, Tore Wentzel-Larsen, et al. 2012. "The day Norway cried: Proximity and distress in Norwegian citizens following, 22nd July 2011 terrorist attacks in Oslo and on Utoya Island." *European Journal of Traumatology* 3, (Nov). The study drew a representative sample from the Norwegian Population Registry. A total of 465 individuals living in Oslo and 716 individuals living in other parts of Norway were interviewed over the phone 4-5 months after the Breivik attacks.

Nordanger, Dag, Kyrre Breivik, Bente Storm Haugland, et al. 2014. "Prior adversities predict posttraumatic stress reactions in adolescents following the Oslo terror events 2011." *European Journal of Traumatology* 5, (May). The study was based on a survey of 10,220 Norwegian high school students that was conducted 7 months after the Oslo and Utoya terrorist attacks. It collected information both on adverse life experiences (e.g. exposure to sexual trauma, violence, etc.) and the exposure and reactions to the Breivik attacks.

³⁸ Greenspan, Arlene I., and Arthur L. Kellerman. 2002. "Physical and Psychological Outcomes 8 Months After Serious Gunshot Injury." *The Journal of Trauma: Injury, Infection and Critical Care* 53, no.4 (Oct): 709-716. This study interviewed 60 patients who were admitted to a Level 1 trauma center for firearm-related injuries, first, at the time of their hospitalization, and second, 8 months after they were discharged. Most respondents indicated symptoms of PTS 8-months post-discharge, with 39% reporting severe symptoms of intrusion and 42% reporting severe avoidance behaviors.

(continued...)

1 54. Not surprisingly, those who have experienced previous trauma or
 2 psychological disorders are especially vulnerable to potential mental health
 3 problems after a mass shooting.³⁹ Moreover, children are more susceptible
 4 experiencing PTS symptoms following a mass shooting. For example, a study of
 5 320 students who survived a mass public shooting at a Danish high school found
 6 that seven months later 35 percent of students reported PTS symptoms and 7
 7 percent had PTSD.⁴⁰

8 55. A recent study of broad scope by Maya Rossin-Slater et al (2019) tries
 9 to estimate the impact on mental health of the over 240,000 American students who
 10 experienced and survived a school shooting in the last two decades. Using large-
 11 scale prescription data from 2006 to 2015, the authors examined the effects of 44
 12 school shootings on youth antidepressant use in a difference-in-difference
 13 framework. Their main finding was that local exposure to fatal school shootings

14 Santiago, Patcho N., Robert J. Ursano, Christine L. Gray, et al. 2013. "A Systematic
 15 Review of PTSD Prevalence and Trajectories in DSM-5 Defined Trauma Exposed Populations:
 16 Intentional and Non-Intentional Traumatic Events." *PLoS One* 8, no. 4 (April). The authors
 17 identified 2,537 articles published from January 1, 1998 to December 31, 2010 and covering
 18 longitudinal studies of directly exposed trauma populations. Of these articles, they closely
 19 surveyed 58 articles that met the DSM-5 definition of having experienced a traumatic event and
 assessed PTSD symptoms at two or more time points within a 12-month window. The authors
 found that in the 5 studies with sufficient data, a median of 37.5% of individuals exposed to
 intentional traumatic events developed PTSD.

20 ³⁹ See Shultz et al (2014), supra note 34, and Littleton, Heather, Amie E. Grills-
 21 Taquechel, Danny Axsom, et al. 2012. "Prior Sexual Trauma and Adjustment Following the
 22 Virginia Tech Campus Shooting: Examination of the Mediating Role of Schemas." *Journal of*
 23 *Psychological Trauma* 4, no.6 (Nov): 579-586. This study had interviewed 215 Virginia Tech
 24 college women prior to the school's mass shooting and then followed up with them two months
 and then one year after the shooting. The authors compared the post-shooting PTSD and
 depression symptoms of women with and without a history of sexual trauma. The authors found
 that women who had experienced sexual trauma reported significantly higher levels of depression
 (p=0.006) and shooting-related PTSD symptoms (p=0.04) in the post-shooting interview.

25 ⁴⁰ Elklit, Ask, and Sessel Kurdahl. 2013. "The psychological reactions after witnessing a
 26 killing in public in a Danish high school." *European Journal of Traumatology* 4, (Jan). Seven
 27 months after the mass public shooting, researchers administered the Harvard Trauma
 28 Questionnaire to Danish students in the second and third grade of high school (this is roughly
 equivalent to the final two years of high school in the US system). The questionnaire was also
 mailed to parents' addresses of students who had graduated in June. Of the 415 students enrolled
 at the time of the shooting, 320 students returned the questionnaire.

1 increased youth antidepressant use by 21.4 percent in the following two years.⁴¹
 2 Given such evidence, any notion that the problem of public mass shootings in the
 3 U.S. is relatively minor is untenable.

4 **Banning Assault Weapons Should Save Lives and Reduce Injuries**

5 56. With only 5 percent of the world's population, the U.S. has roughly
 6 one-third of the public mass shootings across 171 countries since the late 1960s.⁴²
 7 It is widely recognized that gun control can limit the extent of gun violence, and a
 8 variety of measures have been adopted throughout the developed world, including
 9 efforts to restrict who has access to weapons and where they may be carried and to
 10 restrict the types of guns in circulation and the size of ammunition magazines. As
 11 two political scientists explain, there are two primary rationales behind such
 12 measures: "One, they make it less likely that someone intent on violence will be
 13 able to get a gun. And two, by making the weapon less deadly, gun control laws
 14 reduce the danger that the victim of a gun attack will die."⁴³

15 57. California adopted the restrictions at issue in this litigation in pursuit
 16 of this public safety rationale. California SB 880, which was signed into law on
 17 July 1, 2016, expanded the definition of "assault weapons" under Cal. Penal Code
 18 § 30515. The objective of the legislation is demonstrated by the attributes of the
 19 banned weapons. For example, § 30515(a)(1) identifies certain problematic
 20 attributes of rifles with detachable magazines:

21
 22 ⁴¹ Maya Rossin-Slater, Molly Schnell, Hannes Schwandt, Sam Trejo, Lindsey Uniat,
 23 Local Exposure to School Shootings and Youth Antidepressant Use, NBER Working Paper No.
 24 26563 (December 2019), <https://www.nber.org/papers/w26563>. See also, "My son survived
 25 Sandy Hook. It's changed me as a parent," *The Washington Post*, December 13, 2019,
 26 [https://www.washingtonpost.com/lifestyle/2019/12/13/i-cry-high-school-meets-how-sandy-hook-](https://www.washingtonpost.com/lifestyle/2019/12/13/i-cry-high-school-meets-how-sandy-hook-changed-me-parent/)
 27 [changed-me-parent/](https://www.washingtonpost.com/lifestyle/2019/12/13/i-cry-high-school-meets-how-sandy-hook-changed-me-parent/).

28 ⁴² Lankford, Adam, "Public Mass Shooters and Firearms: A Cross-National Study of 171
 Countries," *Violence and Victims*, Vol 31, Issue 2, DOI: 10.1891/0886-6708.VV-D-15-00093,
<http://connect.springerpub.com/content/sgrvv/31/2/187>.

⁴³ Jonathan Spiegler and Jacob Smith, "More mental health care alone will not stop
 gun violence," *The Conversation*, June 19, 2018. [https://theconversation.com/more-mental-](https://theconversation.com/more-mental-health-care-alone-will-not-stop-gun-violence-94201)
[health-care-alone-will-not-stop-gun-violence-94201](https://theconversation.com/more-mental-health-care-alone-will-not-stop-gun-violence-94201)

1 (A) A pistol grip that protrudes conspicuously beneath the action of the
2 weapon.

3 (B) A thumbhole stock.

4 (C) A folding or telescoping stock.

5 (D) A grenade launcher or flare launcher.

6 (E) A flash suppressor.

7 (F) A forward pistol grip.

8 58. The goal behind the delineation of these attributes is to reduce the
9 prevalence of weapons that will be most attractive to mass killers and most
10 effective for committing mass murder or the type of rapid, sustained deadly fire that
11 would be most advantageous for criminal purposes. As Senator Mark Warner noted
12 in referring to a new proposed federal assault weapons ban, we must “recognize
13 that the features and tactical accessories that define assault weapons under this
14 legislation were designed for a specific purpose — to give soldiers an advantage
15 over the enemy, not to mow down students in school hallways.”⁴⁴ The ominous
16 and growing problem of mass public shootings since 2013 convinced the Virginia
17 Senator to reverse his prior opposition to an assault weapons ban.

18 59. Rifles that incorporate military-style features add to their capacity to
19 enhance the death toll in a public mass shooting event: pistol grips and thumbhole
20 stocks enable easier spray-firing; a collapsible or folding stock allows the weapon
21 to be shortened and more easily concealed;⁴⁵ and a flash suppressor shields the
22 shooter from blinding muzzle flashes during sustained rapid fire.⁴⁶ As a

23
24 ⁴⁴ Mark Warner, “I voted against an assault weapons ban. Here’s why I changed my
25 mind,” *The Washington Post*, October 1, 2018,
https://www.washingtonpost.com/opinions/i-voted-against-an-assault-weapons-ban-heres-why-i-changed-my-mind/2018/10/01/3bfa76a0-c594-11e8-9b1c-a90f1daae309_story.html.

26 ⁴⁵ Erica Goodejan, “Even Defining ‘Assault Rifles’ Is Complicated,” *The New York Times*
27 January 16, 2013, <https://www.nytimes.com/2013/01/17/us/even-defining-assault-weapons-is-complicated.html>.

28 ⁴⁶ See *Rovella Aff.*, ¶¶ 34-38, *Shew v. Malloy*, 994 F. Supp. 2d 234 (D. Conn. 2014), *aff’d*
(continued...)

consequence, these attributes make these weapons particularly appealing to mass shooters, drug traffickers, and people who may want to exchange fire with law enforcement.⁴⁷

60. Assault weapons, at least of the long gun variety, tend to have higher muzzle velocities than ordinary handguns.⁴⁸ They also tend to utilize .223 rounds designed to fragment and mushroom in a person's body, as illustrated in the 60 Minutes video referenced above at footnote 27.⁴⁹ These two factors in conjunction mean that injuries from being shot by assault weapons tend to cause more complex damage to the body in ways that make these wounds more dangerous and deadly in both the short and long term.⁵⁰

The Federal Assault Weapons Ban Curtailed Mass Shooting Deaths

61. The first scholar to document the important beneficial effect of the federal assault weapons ban in reducing mass shooting deaths was Louis Klarevas, the author of *Rampage Nation: Securing America from Mass Shootings* (Amherst, NY: Prometheus 2016). The experience from before, during, and after the ten-year

in part, rev'd in part sub nom. New York State Rifle & Pistol Ass'n, Inc. v. Cuomo, 804 F.3d 242 (2d Cir. 2015); H.R. Rep. No. 103-489 (1994) at 18-19.

⁴⁷Footnote 56 above discusses the death after two agonizing years of the 59th victim in the Las Vegas shooting, who was rendered quadriplegic from her assault weapon injury.

See H.R. Rep. No. 103-489 (1994) at 14-16; Brady Center to Prevent Gun Violence, *Assault Weapons: Mass Produced Mayhem*, October 7, 2008, available at <http://www.bradycampaign.org/resources/assault-weapons-mass-produced-mayhem> (last visited Oct. 12, 2018) at 3; Batts Decl. ¶¶ 33, *Kolbe v. O'Malley*, 42 F. Supp. 3d 768 (D. Md. 2014), *aff'd in part, vacated in part, remanded sub nom. Kolbe v. Hogan*, 813 F.3d 160 (4th Cir. 2016), *on reh'g en banc*, 849 F.3d 114 (4th Cir. 2017), and *aff'd sub nom. Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017).

⁴⁸See Defs.' Stmt. Docket Entry 63 ¶¶ 44-45, 58-59, 61, 64-65, *Worman v. Healey*, 1-17-CV-10107, 293 F. Supp. 3d 251 (D. Mass. 2018).

⁴⁹See Batts Decl. ¶¶ 44-45, *Kolbe v. O'Malley*, 42 F. Supp. 3d 768 (D. Md. 2014), *aff'd in part, vacated in part, remanded sub nom. Kolbe v. Hogan*, 813 F.3d 160 (4th Cir. 2016), *on reh'g en banc*, 849 F.3d 114 (4th Cir. 2017), and *aff'd sub nom. Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017); Rovella Aff. ¶¶ 39, *Shew v. Malloy*, 994 F. Supp. 2d 234 (D. Conn. 2014), *aff'd in part, rev'd in part sub nom. New York State Rifle & Pistol Ass'n, Inc. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015); Duncan Long, *The Complete AR-15/M16 Sourcebook* (2d ed.), 2001 at 50; Colwell Decl. at 2-4, *Worman v. Healey*, 293 F. Supp. 3d 251 (D. Mass. 2018).

⁵⁰ See Colwell Decl. in Supp. of Defs.' Opp. to Mot. for Prelim. Inj. ¶ 8.

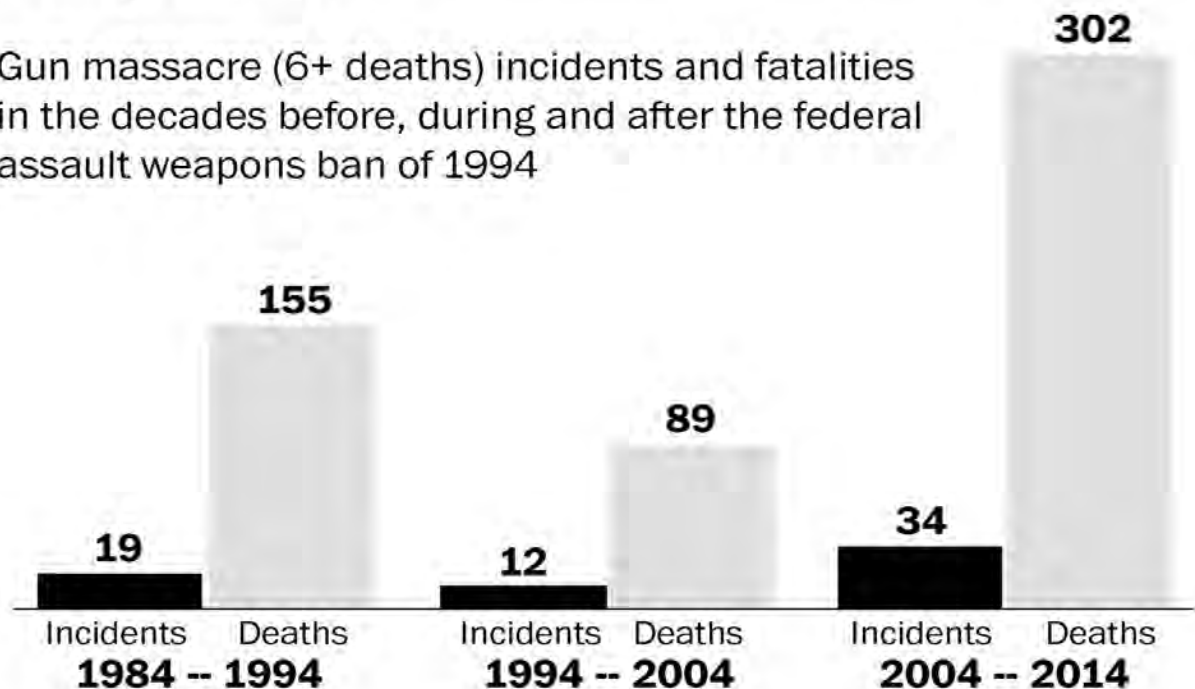
1 period from 1994-2004 when the federal assault weapons ban was in effect
2 provides important evidence that this federal law saved lives and reduced the
3 mayhem from the deadliest mass shootings.

4 62. Klarevas illustrated in the graphic reproduced below how the pattern
5 of the deadliest mass shootings changed over the period from 1984-2014.
6 Examining gun massacres in which at least six were killed, Klarevas found that
7 these incidents and the number of resulting deaths fell during the decade in which
8 the federal assault weapons ban was in place and then rebounded when the ban was
9 lifted in 2004.

10 63. As the following figure shows, when one compares the ten years prior
11 to the federal assault weapons ban to the ten years under that ban, we see a 37
12 percent drop in the number of gun massacres (from 19 down to 12) and 43 percent
13 drop in the number of fatalities (falling from 155 to 89) during the years the federal
14 assault weapons ban was in effect. When the ban ended, gun massacres
15 skyrocketed by more than 183 percent in the following decade (from 12 to 34) and
16 the number of fatalities rose by more than 239 percent (from 89 to 302).

Gun massacres fell during the assault weapons ban

Gun massacre (6+ deaths) incidents and fatalities in the decades before, during and after the federal assault weapons ban of 1994



Source: Louis Klarevas
THE WASHINGTON POST

64. The Klarevas data ended in 2014, so I conducted my own study both to verify the accuracy of the Klarevas findings and then to extend the analysis forward to the present. In implementing his definition of a gun massacre as a mass shooting incident in which 6 or more people died, Klarevas notes in his book that “It doesn’t matter if there is one gunman or several gunmen. It doesn’t need to occur in public. It can be for any reason whatsoever.” In my study, I chose to use the Mother Jones database, which does limit the gun crimes to killings occurring in a public place and omits killings related to armed robbery, gang activity, or domestic violence in accord with recent FBI practice.

65. Figure 1 below shows the number of incidents of such gun massacres and the deaths resulting therefrom based on these criteria.⁵¹ The figure illustrates clearly that the number and deadliness of these mass shootings dropped during the ten years of the federal assault weapons ban from September 1994 through 2004 and rose sharply after the federal ban was lifted.⁵² Although the number of incidents is too limited to highlight the 25 percent drop in gun massacres, the 40 percent drop in overall fatalities during the period of the federal ban is substantial and noteworthy.

66. After the federal ban lapsed in 2004, the gun market was flooded with increasingly more powerful weaponry that allowed mass killers to kill ever more quickly with predictable results. The decade after the ban elapsed saw a 266 percent increase in mass shooting incidents and a 347 percent increase in fatalities, even as overall violent crime continued downward (reflected in the dotted line in Figure 1). In other words, my independent assessment confirms the pattern first revealed by Louis Klarevas: gun massacres fell during the assault weapons ban and rose sharply when it was removed in 2004.

67. What has happened since 2014 is even more alarming. In five years, the number of fatalities in these gun massacres has already topped the previous high that occurred during the first decade after the federal assault weapon ban was removed. This murderous leap has occurred at the same time that overall violent crime persisted on a downward trend, as the dotted line in Figure 1 confirms.⁵³ If we

⁵¹ Figures 1 and 2 are replicated from John Donohue and Theodora Boulouta, "The Assault Weapon Ban Saved Lives," *Stanford Law School Legal Aggregate*, October 15, 2019, <https://stanford.io/2MWNsrV> and discussed further in John Donohue, "The Swerve to 'Guns Everywhere': A Legal and Empirical Analysis," *Law and Contemporary Problems*, (forthcoming, February 2020). See also the earlier piece: John Donohue and Theodora Boulouta, "That Assault Weapon Ban? It Really Did Work," *The New York Times*, September 5, 2019, (with Theodora Boulouta), <https://www.nytimes.com/2019/09/04/opinion/assault-weapon-ban.html>.

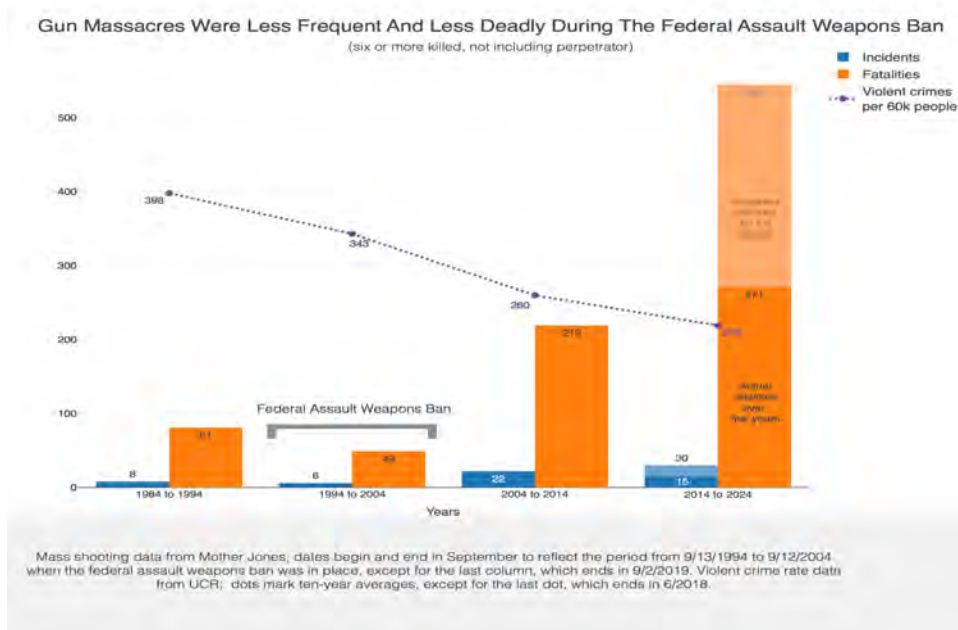
⁵² The Federal Assault Weapons Ban took effect September 13, 1994, and expired on September 13, 2004, due to a sunset provision that enabled the law to lapse.

⁵³ This downward trend in violent crime even as mass shootings rise after 2004 is (continued...)

1 continue at the post-2014 pace until 2024, the last column of Figure 1 shows that
 2 we will have an astonishing order of magnitude increase in gun massacre deaths
 3 over a 20-year period.⁵⁴

4 68. The evident effectiveness of the assault weapons ban in reducing mass
 5 shooting deaths is exactly what we would expect, since during the decade of the
 6 federal assault weapons ban mass killers could not simply enter a gun store and buy
 7 an assault weapon with a large capacity magazine, as they can do in most of the
 8 U.S. today.⁵⁵

9 **Figure 1**



69. Figure 2 illustrates the average number of fatalities in each mass shooting for the same four periods shown in Figure 1. The pattern is the same:

important evidence of the harmful impact of ending the federal assault weapons ban. Without that evidence one might mistakenly think that the overall violent crime drop of roughly 14 percent during the decade of the federal assault weapons ban was simply part of downward crime which itself explains the drop in mass shooting deaths. The experience after 2004 undermines that view.

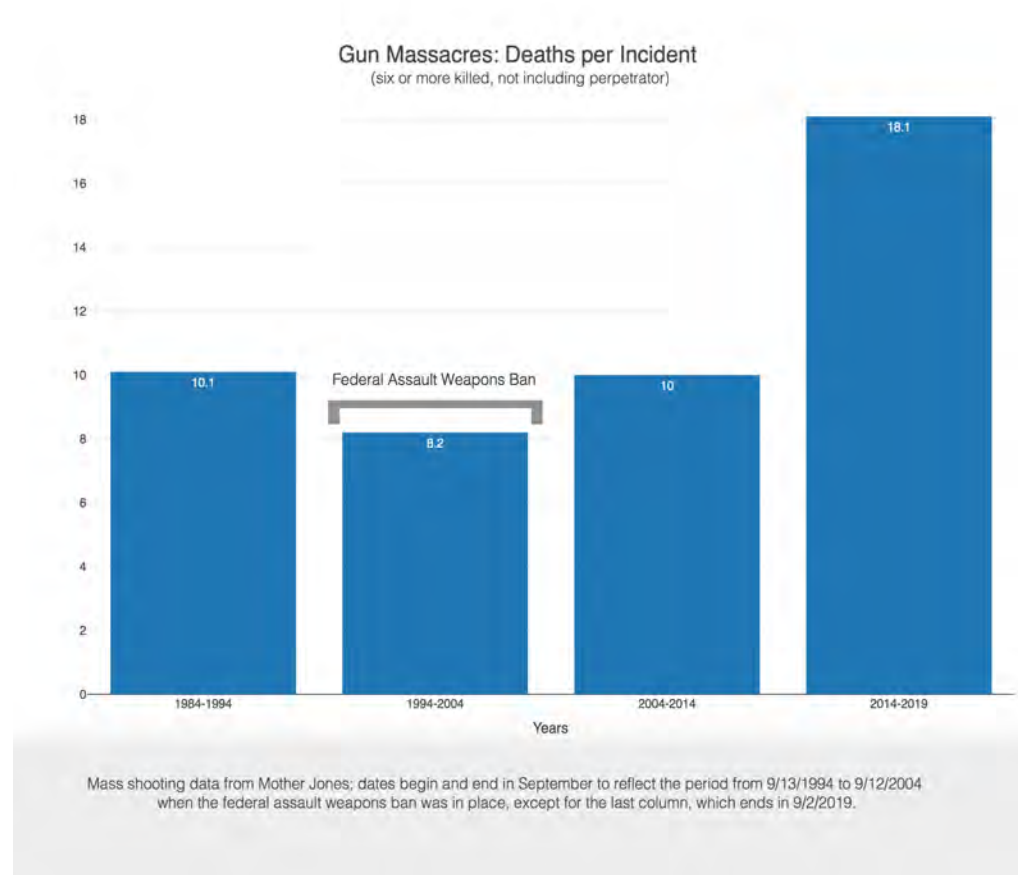
⁵⁴ Note that the numbers of mass shootings would be substantially larger using alternative definitions, such as the Gun Violence Archive definition of *four individuals wounded by gunfire in a single incident*. Using that more capacious definition, there have been 366 mass shootings in the first 318 days of 2019, killing 408 and injuring 1477. <https://www.insider.com/number-of-mass-shootings-in-america-this-year-2019-8>.

⁵⁵ Only 7 states and the District of Columbia ban assault weapons and all of those states plus Colorado and Vermont restrict the permissible size of the ammunition magazines.

1 fatalities per incident fell during the federal assault weapon ban and have risen
 2 sharply thereafter. With the weaponry available to citizens getting increasingly
 3 more potent and plentiful, the average number of people who die in every incident
 4 has increased by 90 percent since the decade after elimination of the assault
 5 weapons ban.

6 70. Assault weapons and/or high capacity magazines were used in all 15
 7 gun massacres since 2014 in which at least six were killed (other than the shooter)
 8 shown in Figure 1; all 272 people who died in these 15 gun massacres were killed
 9 by weaponry prohibited under the federal assault weapons ban.⁵⁶

10 **Figure 2**



25 ⁵⁶ After Figure 1 was created another victim of the Las Vegas shooting died from her
 26 horrendous and agonizing injuries, which elevates to 272 the number of deaths from public gun
 27 massacres in the last five years. The following article highlights some of the devastating injuries
 28 that result from being shot by an assault rifle, such as that used by the Las Vegas shooter.
[https://www.kptv.com/news/vancouver-woman-says-sister-injured-in-las-vegas-shooting-
 has/article_af9198c6-099c-11ea-87c1-37de7096726f.html](https://www.kptv.com/news/vancouver-woman-says-sister-injured-in-las-vegas-shooting-has/article_af9198c6-099c-11ea-87c1-37de7096726f.html)

71. The dramatic increases in gun massacre incidents and fatalities closely tracks the growth in U.S. sales of previously federally banned weaponry that was ignited by the expiration of the federal assault-weapons ban in 2004, the removal of potential liability on the part of gun merchants, and intense advertising of the militarized upgrades, ranging from high-capacity magazines to flash suppressors, that stimulated the demand for this highly dangerous consumer product. Josh Sugarmann, executive director of the Violence Policy Center, notes that “The end of the assault-weapons ban allowed for the customization and modification of these weapons to make them look even more militaristic, even more grand in the eyes of their owners.”⁵⁷

Industry Advertising of Assault Weapons Appeals to Potential Mass Shooters

72. A year after the lapsing of the federal assault weapons ban, the Protection of Lawful Commerce in Arms Act (PLCAA) was passed, which provided gun manufacturers with near-blanket immunity from suits based on the criminal misuse of their products. This emboldened a torrent of consumer advertising designed to highlight the battlefield appeal of modern assault weapons, and sales soared in response. The dramatic rises in gun massacres followed.

73. These advertising campaigns reveal exactly how the gun industry sought to market assault weapons: they are hawked with explicit depictions of combat and phrases like “The closest you can get without having to enlist.”⁵⁸

74. Unsurprisingly, a growing number of mass killers turn to these assault rifles when they launch their deadly onslaughts. Moreover, an industry survey of civilian assault-rifle ownership “reveals that the average civilian assault-rifle owner keeps a small arsenal, owning three or more of the guns; 27 percent of owners have

⁵⁷ Quoted in Tim Dickinson, “All-American Killer: How the AR-15 Became Mass Shooters’ Weapon of Choice,” *Rolling Stone*, February 22, 2018, <https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/>

⁵⁸ *Id.*

1 bought four or more. [Unfortunately,] many civilian assault-rifle owners fail to
 2 secure their arms; nearly one owner in five does not lock up his rifle, and more than
 3 30 percent take no care to secure their ammunition.”⁵⁹ In other words, a very
 4 substantial fraction of owners of assault rifles act irresponsibly, thereby exposing
 5 their weapons to loss or theft and resulting criminal misuse. For example, the
 6 weapons used by Adam Lanza to kill his mother, Nancy Lanza, and in the
 7 Newtown shooting were owned by his mother – a pattern that has repeated itself all
 8 too often as the Wall Street Journal noted (see footnote 22, above).

9 75. Indeed, the makers of the Bushmaster assault rifle Nancy Lanza owned
 10 and that her son Adam Lanza used to gun down first-graders and teachers in
 11 Newtown was sold under the slogan “Forces of opposition, bow down.” While such
 12 weapons are designed for and appropriately used by trained military personnel and
 13 law enforcement, they are exceedingly dangerous when wielded by mentally
 14 unstable civilians.

15 76. While the United States does not have a higher rate of mental illness
 16 than other advanced industrialized nations, it certainly has a higher rate of public
 17 mass shootings.

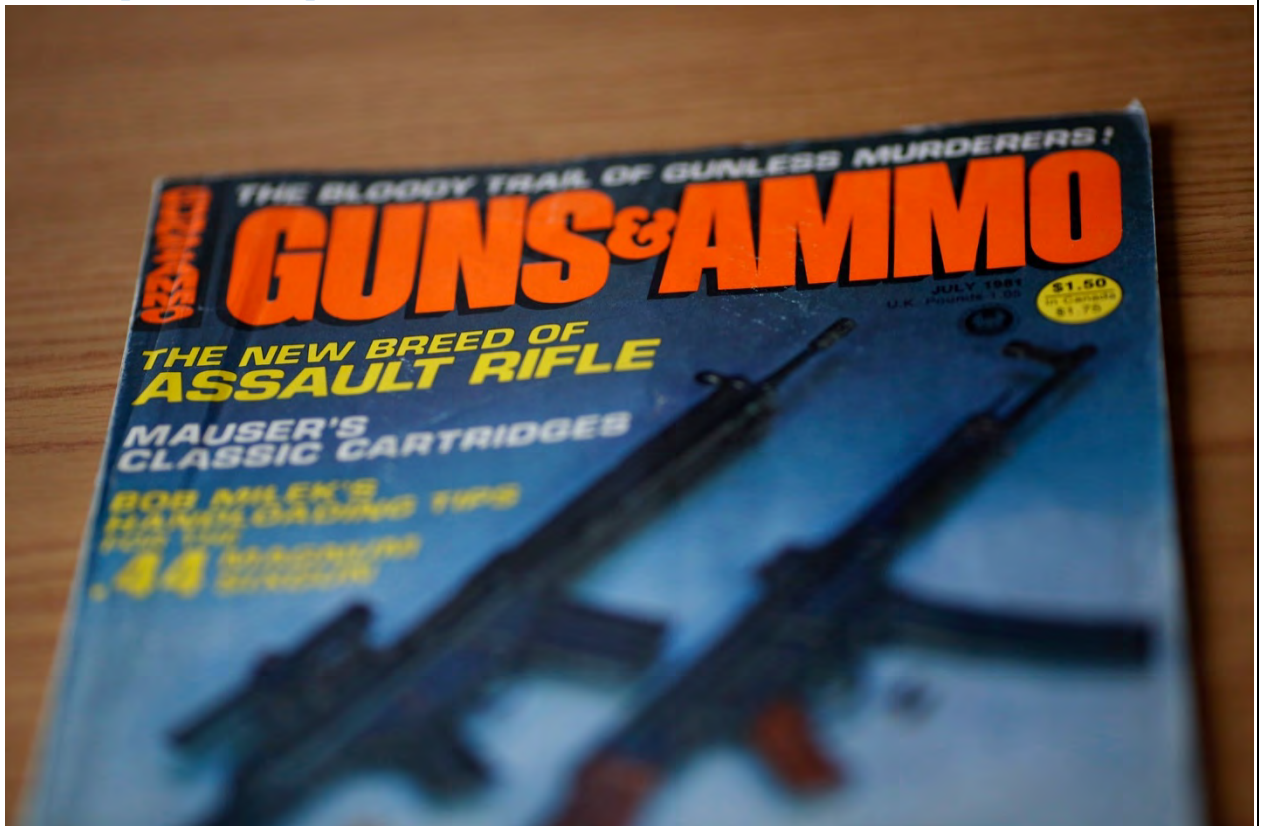
18 77. The gun industry frequently claims that the term “assault weapon” did
 19 not exist in the lexicon of firearms, but is a political term, developed by anti-gun
 20 publicists to expand the category of “assault rifles” so as to allow an attack on as
 21 many additional firearms as possible on the basis of undefined “evil appearance.”⁶⁰
 22

23 ⁵⁹ The NSSF periodically conducts research on civilian assault rifles intended for gun
 24 sellers, and these figures are from their latest survey. Tim Dickinson, “All-American Killer: How
 25 the AR-15 Became Mass Shooters’ Weapon of Choice,” *Rolling Stone*, February 22, 2018,
<https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/>

26 ⁶⁰ The complaint in *Rupp v. Becerra*, challenging California’s ban on assault weapons. Mr.
 27 Curcuruto’s declaration in this case includes a gun industry publication as Exhibit 1 that mimics
 28 this same inaccurate claim in stating: “Mislabeling these rifles as “assault rifles” was, and is, a
 strategy of gun-banners, and anyone who uses that terminology aids efforts to strip away the right
 to own these versatile, fun-to-shoot firearms.”

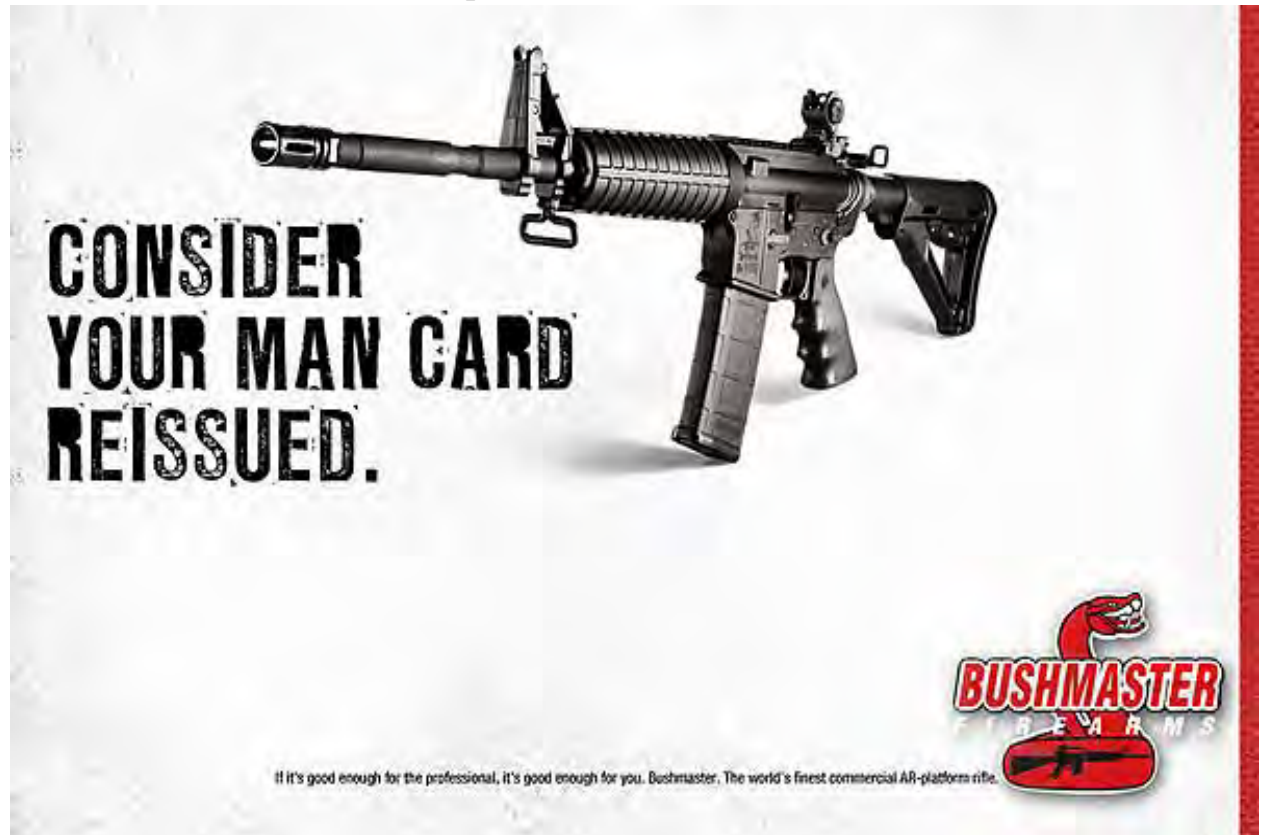
1 This is incorrect. In fact, throughout the 1980s the gun industry marketed AR-type
 2 rifles as “assault” weapons because that promoted sales. The image below of a
 3 Guns & Ammo magazine cover highlighting assault rifles in July 1981 is just one
 4 of the numerous such advertisements and gun industry publications concerning
 5 assault weapons that one can find on the web throughout the 1980s.⁶¹ Only when
 6 the increase in civilian ownership of these weapons was followed by outrage over
 7 (and fears of potential tort liability for) prominent mass shootings did the industry
 8 shift away from that direct terminology in its advertisements (while continuing to
 9 market guns with appeals to their military character).

10 The July 1981 issue of Guns & Ammo. (Reproduced from the New York
 11 Times, [https://www.nytimes.com/2013/01/17/us/even-defining-assault-](https://www.nytimes.com/2013/01/17/us/even-defining-assault-weapons-is-complicated.html)
 12 [weapons-is-complicated.html](https://www.nytimes.com/2013/01/17/us/even-defining-assault-weapons-is-complicated.html)



61 See, <https://www.democraticunderground.com/126210025>.

78. Consider the following Bushmaster advertisement for the gun that Adam Lanza used, and imagine the impact it could have on someone struggling with substantial mental health problems:



79. Notably, while Lanza used a Savage Mark II bolt-action .22-caliber rifle to kill his sleeping mother, he chose the much more dangerous Bushmaster assault weapon with 30-round magazines that enabled him to fire 154 bullets over the 264 seconds in his lethal rampage at Sandy Hook School.⁶² We can surmise that if he had only a bolt action hunting rifle, he could not have fired as many bullets and many lives would have been spared.

⁶² Coalition to Stop Gun Violence, “What Adam Lanza Took, and Didn’t Take, to Sandy Hook Elementary,” <https://www.csgv.org/adam-lanza-took-didnt-take-sandy-hook-elementary/> (last visited on October 22, 2018).

1 80. The impact of the gun industry's efforts to exploit messages about
2 assault weapons directed at those with deep insecurities and even mental health
3 issues showed up in another recent mass shooting.



15
16 81. The nineteen-year old killer of 17 at Parkland High School (on
17 February 14, 2018) was moved to post the above NRA image on his Instagram
18 account. He stated in a recording that he had had enough of being told what to do
19 and was tired of being called “an idiot.” “I am nothing. I am no one, my life is
20 nothing and meaningless. With the power of the A.R., you will know who I am.”

21 82. Of course, banning assault weapons does not eliminate the threat from
22 troubled individuals, but since these weapons are particularly attractive to troubled
23 potential mass killers and specifically designed to facilitate the most rapid and
24 effective annihilation of all intended targets, bans on assault weapons is not only
25 prudent but indeed indispensable in any governmental effort designed to effectively
26 address the mass shooting problem in America. A brief discussion of how and why
27 the AR-15 came to be chosen as the primary military combat weapon used by the
28 U.S. in Vietnam explains why.

The Army Adopts the AR-15 for Battlefield Use

83. In 1957, the Army invited Armalite's chief gun designer, Eugene Stoner, to produce a lightweight, high-velocity rifle, that could operate in both semi- and full-automatic modes with firepower capable "of penetrating a steel helmet or standard body armor at 500 yards." Stoner devised the AR-15 to meet these specifications. The Advanced Research Projects Agency (ARPA) –today known as DARPA – was so impressed with the AR-15's value as a combat weapon that it pushed to have 1,000 rifles shipped for use by South Vietnamese troops and their American special-forces trainers in 1961.

84. The performance of this new assault weapon was assessed in a confidential ARPA report in July 1962, stating "The AR-15 Armalite rifle has been subjected to a comprehensive field evaluation under combat conditions in Vietnam."⁶³ The report noted that "The lethality of the AR-15 and its reliability record were particularly impressive."⁶⁴ The wounds generated by this weapon were prodigious: "At a distance of approximately 15 meters, one Ranger fired an AR-15 full automatic hitting one VC [(Viet Cong)] with 3 rounds [of Caliber .223] with the first burst. One round in the head-took it completely off. Another in the right arm, took it completely off, too. One round hit him in the right side, causing a hole about five inches in diameter. It cannot be determined which round killed the VC but it can be assumed that *any one of the three would have caused death*."⁶⁵

85. The report enumerated the wounds in a Ranger ambush of a Viet Cong position, including: a back wound that "caused the thoracic cavity to explode"; a buttock wound that "destroyed all tissue of both buttocks"; and finally "a heel wound," where "the projectile entered the bottom of the right foot causing the leg to

⁶³ Advanced Research Projects Agency, Office of the Secretary of Defense, *Field Test Report, AR-15 Armalite Rifle*, at 4 (July 31, 1962,). Retrieved October 12, 2018 from <http://www.dtic.mil/dtic/tr/fulltext/u2/343778.pdf>

⁶⁴ Id. at 15.

⁶⁵ Id. at 22 (emphasis added).

1 split from the foot to the hip.” All the deaths were “instantaneous,” “except the
2 buttock wound. He lived approximately five minutes.”⁶⁶

3 86. The “phenomenal lethality” of the AR-15 described by ARPA led the
4 Army in December 1963 to adopt the AR-15 – rebranding it the M16.

5 87. Of course, the civilian AR-15 lacks the fully automatic (and burst)
6 mode of the M16, but it still retains all the other aspects that made it such a
7 valuable lethal weapon for deadly combat. In fact, the Army’s own Field Manual
8 states that semi-automatic fire is the “most important firing technique during fast-
9 moving, modern combat,” noting, “It is surprising how devastatingly accurate rapid
10 semi-automatic fire can be.”⁶⁷ In other words, saying that this semi-automatic
11 assault weapon is not a weapon of war because it doesn’t have fully automatic
12 capacity is like saying that a conventional bomber is not a war plane because it isn’t
13 carrying a nuclear payload. Indeed, the ability to convert a civilian AR-15 into a
14 fully automatic weapon – or the near fully-automatic capacity that Stephen Paddock
15 used in the Las Vegas shooting of a year ago – is yet an additional factor that
16 renders it unusually dangerous.

17 88. According to one of its designers, the AR-15 assault rifle was
18 originally engineered to generate “maximum wound effect.” “It’s a perfect killing
19 machine,” says Dr. Peter Rhee, a trauma surgeon and retired Navy captain.⁶⁸

20 89. Rhee was the doctor who saved the life of Arizona Rep. Gabby
21 Giffords after she was shot in the head with a handgun fired during a mass shooting
22 in 2011. According to Rhee: “A handgun [wound] is simply a stabbing with a
23

24
25 ⁶⁶ Tim Dickinson, “All-American Killer: How the AR-15 Became Mass Shooters’
26 Weapon of Choice,” *Rolling Stone*, February 22, 2018,
<https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/>

27 ⁶⁷ Id.

28 ⁶⁸ Id.

1 bullet. It goes in like a nail. [But with the AR-15,] it's as if you shot somebody with
2 a Coke can."

3 **The Allure of and Value to Mass Shooters of Assault Weapons**

4 90. It is not surprising that mass shooters employing these particularly
5 lethal weapons are able to kill so many so quickly: Adam Lanza was able to
6 slaughter 26 in less than five minutes with his Bushmaster AR-15. James Holmes
7 used a Smith & Wesson "Military & Police" (M&P) AR-15 fitted with a 100-round
8 magazine to kill 12 and wound 58 in a Colorado movie theater. The ISIS-inspired
9 San Bernardino, California, shooters used a pair of AR-15s to kill 14. Orlando
10 shooter Omar Mateen unleashed Sig Sauer's concealable "next-generation AR" to
11 leave 49 dead and dozens more injured at the Pulse nightclub.

12 91. Moreover, there is not the slightest evidence that the federal
13 restrictions on assault weapons that was enacted in 1994 (and lapsed ten years later)
14 compromised the safety of law-abiding citizens. Since these weapons are useful for
15 those bent on mass killing, further limiting their availability should have a
16 beneficial effect on the active shooter and mass shooting problems that are serious
17 and worsening in the United States.

18 92. It should be noted that even if an assault weapons ban failed to reduce
19 the overall criminal use of guns, it can be expected to reduce the overall death toll
20 from the criminal use of guns.

21 93. As noted above, Adam Lanza was able to kill more because he was
22 using a lawfully purchased assault weapon equipped with a 30-round large-capacity
23 magazine. Telling us that Nancy Lanza was a law-abiding citizen so there would be
24 no reason to deprive her of the right to buy an assault weapon entirely misses the
25 point of the benefit of an assault weapons ban: it was the weaponry of a totally
26 law-abiding citizen that directly led to horrific slaughter of 20 first-grade students
27 and six adults. Law-abiding citizens can and do themselves cross over the line into
28 criminal misconduct, but they also facilitate and enable others to engage in deadly

1 misconduct when they make their guns available to others through loss or theft. In
 2 other words, the assault weapons ban is designed precisely to save lives and by
 3 raising the costs for killers, it would be expected to advance that goal, as indeed the
 4 empirical evidence confirms.

5 94. The references to “law-abiding citizens” in Plaintiffs’ complaint
 6 reflects an inaccurate assessment of the potential impact on “law-abiding citizens”
 7 of California’s assault weapons ban. Hundreds of law-abiding citizens have been
 8 killed in mass shootings and the problem of mass shootings is getting worse. Since
 9 the value of assault weapons over non-assault weapons for legitimate self-defense is
 10 virtually non-existent, the primary impact of removing such weapons from
 11 circulation will be to decrease the prospect that a law-abiding citizen will be
 12 confronted by a criminal with such weaponry.

13 95. “[L]aw-abiding citizens” whose guns are lost or stolen each year are
 14 one of the most important sources of weapons for criminals in the United States.
 15 The best current estimates are that roughly 400,000 guns move into the hands of
 16 criminals this way each year in the United States.⁶⁹ In other words, it is orders of
 17 magnitudes more likely that a criminal will steal a gun of a law-abiding citizen than
 18 a law-abiding citizen will fire an assault weapon in lawful self-defense. More
 19 assault weapons in the hands of law-abiding citizens like Nancy Lanza means more
 20 assault weapons in the hands of criminals such as Adam Lanza.

21 ⁶⁹According to Larry Keane, senior vice president of the National Shooting Sports
 22 Foundation (a trade group that represents firearms manufacturers), “There are more guns stolen
 23 every year than there are violent crimes committed with firearms.” More than 237,000 guns were
 24 reported stolen in the United States in 2016, according to the FBI’s National Crime Information
 25 Center. The actual number of thefts is obviously much higher since many gun thefts are never
 26 reported to police, and “many gun owners who report thefts do not know the serial numbers on
 27 their firearms, data required to input weapons into the NCIC.” The best survey estimated 380,000
 28 guns were stolen annually in recent years, but given the upward trend in reports to police, that
 figure likely understates the current level of gun thefts. See, Freskos, Brian. 2017c. “These Gun
 Owners Are at the Highest Risk of Having Their Firearms Stolen.” The Trace. 4/11/2017.
<https://www.thetrace.org/2017/04/gun-owners-high-risk-firearm-theft/> and Freskos, Brian. 2017b.
 “Missing Pieces.” The Trace. 11/20/2017. <https://www.thetrace.org/features/stolen-guns-violent-crime-america/>.

1 96. Further, many of the most horrific mass shootings in America were
 2 perpetrated by previously law-abiding citizens. The list, which is too long to recite,
 3 includes Stephen Paddock, who killed 59 in Las Vegas; Omar Mateen, who killed
 4 49 in the Pulse nightclub in Orlando; Adam Lanza, who killed 26 in Newtown,
 5 Connecticut; and the Batman killer in Aurora, Colorado, who killed 12.

6 97. On November 5, 2009, Nidal Hasan killed 13 and injured more than 30
 7 others at Fort Hood, near Killeen, Texas. When Hasan purchased his killing
 8 arsenal, he asked for "the most technologically advanced weapon on the market and
 9 the one with the highest standard magazine capacity."⁷⁰ Searching for the deadliest
 10 assault weapon is exactly what one would do if one wanted to simply kill as many
 11 people as possible in the shortest amount of time. If one is serious about stopping
 12 mass killings, a good first step is to deprive such killers of their preferred killing
 13 approaches.

14 **Assault Weapons Bans are Critical to Reducing the Cost of Mass Shootings**

15 98. The response that bans on assault weapons will have a limited effect
 16 on overall gun crime, which is most commonly committed with a handgun, is
 17 misplaced because California's assault weapons ban was not enacted to address gun
 18 crime generally, but rather was adopted in response to the growing mass shooting
 19 problem in the United States. The AWCA was enacted in the immediate aftermath
 20 of the 1989 mass shooting in the schoolyard of Cleveland Elementary School in
 21 Stockton, California by an individual armed with an AK-47 semiautomatic rifle.
 22 The legislature in Vermont recently adopted a series of gun control measures
 23 including barring sales of assault weapons to those under 21 after the arrest of Jack
 24 Sawyer based on evidence that he intended to commit a mass school shooting in
 25

26
 27 ⁷⁰Scott Huddleston, "Hasan Sought Gun with 'High Magazine Capacity,'" October 21,
 28 2010, <http://blog.mysanantonio.com/military/2010/10/hasan-sought-gun-with-high-magazine-capacity/>.

1 Fair Haven, Vermont.⁷¹ Among other things, police recovered a diary titled
 2 “Journal of an Active Shooter” and were told by Mr. Sawyer that he had recently
 3 purchased a shotgun and was hoping to buy an AR-15 rifle.⁷²

4 99. Empirical studies of public mass shootings by Christopher Koper and
 5 others lead them to support restrictions on assault weapons and the large-capacity
 6 magazines that can enhance their lethality. Koper concludes from his research that a
 7 revived federal assault weapons ban can “reduce the number and severity of mass
 8 shooting incidents.”⁷³

9 100. The troubling gun massacres of the last year have underscored the
 10 efforts of the California legislature and voters “to aid in the shaping and application
 11 of those wise restraints that make men free” by banning the assault weapons that
 12 have been a key element enabling the escalating threat and lethality of horrific mass
 13 shootings.⁷⁴

14 101. It is my opinion that if, rather than allowing the federal assault
 15 weapons ban to lapse in 2004, the country had moved to a more complete ban,

17 ⁷¹ The Vermont State police arrested Jack Sawyer the day after the Parkland, Florida mass
 18 school shooting. *See State v. Sawyer*, 2018 VT 43, ¶¶ 5-10. Several public officials shortly
 19 thereafter announced their support for new gun safety legislation. *See John Walters, Scott Shifts*
 20 *Gun Stance Following Fair Haven Threat*, Seven Days (Feb. 16, 2018), available at
 21 [https://www.sevendaysvt.com/OffMessage/archives/2018/02/16/walters-scott-shifts-gun-stance-](https://www.sevendaysvt.com/OffMessage/archives/2018/02/16/walters-scott-shifts-gun-stance-following-fair-haven-threat)
 22 [following-fair-haven-threat](https://www.sevendaysvt.com/OffMessage/archives/2018/02/16/walters-scott-shifts-gun-stance-following-fair-haven-threat); Alan J. Keays, *Scott says ‘everything’s on the table’ as pressure*
 23 *builds for gun measures*, VTDigger (Feb. 22, 2018), [https://vtdigger.org/2018/02/22/updated-](https://vtdigger.org/2018/02/22/updated-scott-says-everythings-on-the-table-as-pressure-builds-for-gun-measures/)
 24 [scott-says-everythings-on-the-table-as-pressure-builds-for-gun-measures/](https://vtdigger.org/2018/02/22/updated-scott-says-everythings-on-the-table-as-pressure-builds-for-gun-measures/).

25 ⁷² Alan J. Keays, *Court Shown Video of Alleged School Shooting Plotter’s Interrogation*,
 26 VTDigger (Feb. 27, 2018), [https://vtdigger.org/2018/02/27/ex-student-accused-fair-haven-](https://vtdigger.org/2018/02/27/ex-student-accused-fair-haven-shooting-plot-details-plans/)
 27 [shooting-plot-details-plans/](https://vtdigger.org/2018/02/27/ex-student-accused-fair-haven-shooting-plot-details-plans/).

28 ⁷³ Linda Qiu and Justin Bank, “Major Shootings Led to Tougher Gun Laws, but to What
 End?” *The New York Times*, Feb. 23, 2018,
<https://www.nytimes.com/2018/02/23/us/politics/fact-check-mass-shootings-gun-laws.html>; see
 also, Carolyn Lochhead, “Feinstein renews effort to ban assault weapons,” *San Francisco*
Chronicle, March 3, 2018,
[https://www.sfchronicle.com/nation/article/Feinstein-renews-effort-to-ban-assault-weapons-](https://www.sfchronicle.com/nation/article/Feinstein-renews-effort-to-ban-assault-weapons-12725959.php)
[12725959.php](https://www.sfchronicle.com/nation/article/Feinstein-renews-effort-to-ban-assault-weapons-12725959.php).

⁷⁴ The quote is from John MacArthur Maguire and is enshrined at the Harvard Law School
 library. *See* <https://asklib.law.harvard.edu/friendly.php?slug=faq/115309> (last visited Nov. 1,
 2017).

1 many of the gun tragedies of recent years would have been far less deadly and
 2 damaging to countless individuals who have been maimed and injured throughout
 3 the United States. It is also my opinion that California's ban on assault weapons is
 4 one tool in the important governmental effort to reduce the likelihood that
 5 Californians will be killed in mass shootings by making it incrementally harder for
 6 prospective mass shooters to equip themselves with weapons that are both uniquely
 7 appealing to their criminal aspirations as well as uniquely designed to aid in their
 8 homicidal rampages.

9 **Uses of Assault Weapons for Self-Defense are Extremely Rare**

10 102. In the face of the clear evidence from around the United States and the
 11 world, Plaintiffs' complaint and motion for preliminary injunction posit that assault
 12 weapons might protect against crime rather than simply increase the death toll.
 13 First, it is worth noting that the vast majority of the time that an individual in the
 14 United States is confronted by violent crime, they do not use any gun for self-
 15 defense. Specifically, over the period from 2007-2011 when roughly 6 million
 16 violent crimes occurred each year, data from the National Crime Victimization
 17 Survey shows that the victim did not defend with a gun in 99.2 percent of these
 18 incidents – this in a country with 300 million guns in civilian hands.

19 103. Second, even if a gun were available for self-defense use, the need for
 20 an assault weapon is virtually non-existent according to decades of statements by
 21 NRA-affiliated and pro-gun experts. For example, one of Plaintiffs' proffered
 22 experts in this case, John Lott, has repeatedly made the following claims:

- 23 • based on “about 15 national survey[s] ... about 98 percent of [defensive
 24 gun uses] involve people brandishing a gun and not using them.”⁷⁵

25
 26
 27 ⁷⁵Statements by John R. Lott, Jr. on Defensive Gun Brandishing Posted by Tim Lambert
 28 on October 17, 2002 <http://scienceblogs.com/deltoid/2002/10/17/lottbrandish/>. Page 41, State of
 Nebraska, Committee on Judiciary LB465, February 6, 1997, statement of John Lott, Transcript
 prepared by the Clerk of the Legislature, Transcriber's Office.

- 1 • “When victims are attacked, 98 percent of the time merely brandishing a
- 2 gun is enough to cause the criminal to stop his attack.”⁷⁶
- 3 • “Considerable evidence supports the notion that permitted handguns deter
- 4 criminals. In 98% of the cases, people simply brandish weapons to stop
- 5 attacks.”⁷⁷

6 104. Gun Owners of America cite published survey results on gun
 7 brandishing: “Of the ... times citizens use their guns to defend themselves every
 8 year, the overwhelming majority merely brandish their gun or fire a warning shot to
 9 scare off their attackers.”⁷⁸

10 105. In other words, a gun is used in defense less than 1 percent of the time
 11 when someone is attacked in the United States. In the “overwhelming majority” of
 12 the less than 1 percent of cases in which a gun is used, brandishing is all that is
 13 needed for defense. The U.S. Supreme Court in *Heller* considered a handgun the
 14 quintessential self-defense weapon. It cannot be seriously maintained that an
 15 assault weapon plays any important role in furtherance of this Second Amendment
 16 goal. Indeed, if they were, the industry would have marketed them as protection
 17 weapons instead of assault weapons – or in the more recent gun-marketing jargon
 18 “sporting” or “tactical” rifles.

19 106. Consequently, California’s assault weapons ban, which is designed to
 20 limit the mayhem caused by criminals engaging in the most dangerous forms of
 21 violent criminal behavior, is likely to have little or no impact on the defensive
 22 capabilities of law-abiding citizens in their homes.

23 107. Assault weapons are the mass killers’ armaments of choice. A study
 24 of 62 public mass shooting incidents occurring between August 1982 and

25 ⁷⁶John R. Lott, Jr., Packing Protection, Letters, *Chicago Sun-Times*, April 30, 1997, Pg.
 26 52.

27 ⁷⁷John R. Lott Jr., “Unraveling Some Brady Law Falsehoods,” *Los Angeles Times*, July 2,
 28 1997.

⁷⁸Gary Kleck and Marc Gertz, "Armed Resistance to Crime: The Prevalence and Nature of
 Self-Defense with a Gun," 86(1) *Journal of Criminal Law and Criminology* 150-187 (Fall 1995).
<https://pdfs.semanticscholar.org/91da/afb92d021f06426764e800a4e639a1c1116.pdf> .

December 2012 found that more than half the time, the attackers used assault rifles, high-capacity magazines, or both.⁷⁹ Indeed, as I noted above, at least 272 people who died in gun massacres since 2014 were killed by weaponry prohibited under the federal assault weapons ban.

Law Enforcement and Military Support for Assault Weapon and LCM Bans

108. The testimony of United States Attorney (District of Colorado) John Walsh before the Senate Judiciary Committee on February 27, 2013,⁸⁰ is worth quoting:

From the point of view of most law enforcement professionals, a perspective I share as a long-time federal prosecutor and sitting United States Attorney, shutting off the flow of military-style assault weapons and high-capacity magazines is a top public safety priority. [...]

Like military-style assault weapons, high-capacity magazines should be reserved for war, and for law enforcement officers protecting the public.⁸¹

109. Dean L. Winslow, a retired Air Force colonel, flight surgeon, and professor of medicine at Stanford University has particularly valuable insight into the wisdom of having assault weapons in civilian hands.

110. Dr. Winslow noted that “as commander of an Air Force hospital in Baghdad during the surge, I have seen what these weapons do to human beings.

⁷⁹ Follman M, Aronsen G, and Lee J, More than half of mass shooters used assault weapons and high-capacity magazines. <http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein>. This study defines a mass shooting as an incident where 4 or more victims are killed with a firearm, in a public place, and excludes familicide mass shootings and mass shootings related to other crimes such as gang violence or armed robbery. Out of the 62 incidents, the authors identified 31 mass shooting incidents involving high capacity magazines, 14 mass shooting cases involving assault weapons, and overall 33 cases involving assault weapons or high capacity magazines or both. The authors identify guns using high capacity magazines or assault weapons based on the definitions in the Feinstein Assault Weapons Ban Senate bill of 2013.

<https://www.motherjones.com/politics/2012/07/mass-shootings-map/U>.

⁸⁰Statement of John F. Walsh before the United States Senate Committee on the Judiciary, <https://www.judiciary.senate.gov/imo/media/doc/2-27-13WalshTestimony.pdf> (last visited Nov. 1, 2017).

⁸¹See, David S. Fallis and James V. Grimaldi, *In Virginia, high-yield clip seizures rise*, Washington Post, Jan. 23, 2011, available at <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012204046.html> (last visited Nov. 1, 2017).

1 The injuries are devastating.”⁸² Moreover, unlike a shotgun filled with birdshot,
 2 which is far more likely to hit a target than a bullet from an assault weapon, assault
 3 weapons are simply not well suited for defensive use in the home. Based on his
 4 extensive military and medical experience, Dr. Winslow noted that it is “insane ...
 5 that in the United States of America a civilian can go out and buy a semiautomatic
 6 weapon like an AR-15.”

7 111. According to Maryland Police Superintendent Marcus Brown, “in
 8 many home defense situations assault weapons are likely to be less effective than
 9 handguns because they are less maneuverable in confined areas.”⁸³ Experts consider
 10 handguns clearly more suitable than assault weapons for self-defense.
 11 Massachusetts Chief of Police Mark K. Leahy said that when “asked to recommend
 12 a weapon for home defense or concealed carry, I always recommend a handgun.”⁸⁴

13 112. Since AR-15’s were selected by the Defense Department as a weapon
 14 of choice for the battlefield in Vietnam because the destructive force of the gun
 15 made it especially lethal to even outer extremity wounds, the point could not be
 16 clearer: keeping these weapons out of civilian hands will reduce the death toll and
 17 seriousness of woundings in cases of mass shootings or other criminal or accidental
 18 uses of these weapons.

19 **Gun Control Dramatically Reduced Mass Shootings in Australia**

20 113. In this regard, consider what happened in Australia after a gunman
 21 shot and killed 35 people in Port Arthur, Tasmania in 1996. The Australian federal
 22 government persuaded all states and territories to implement tough new gun control
 23 laws. Under the National Firearms Agreement (NFA), firearms legislation was
 24 tightened throughout the country, national registration of guns was imposed, and it

25 ⁸² See also, Heather Sher, “What I Saw Treating the Victims from Parkland Should
 26 Change the Debate on Guns,” *The Atlantic Monthly*, February 22, 2018,
 27 [https://www.theatlantic.com/politics/archive/2018/02/what-i-saw-treating-the-victims-
 from-parkland-should-change-the-debate-on-guns/553937/](https://www.theatlantic.com/politics/archive/2018/02/what-i-saw-treating-the-victims-from-parkland-should-change-the-debate-on-guns/553937/)

28 ⁸³Brown Decl. ¶ 20, *Kolbe v. O’Malley*, 42 F. Supp. 3d 768 (D. Md. 2014).

⁸⁴Leahy Decl. ¶ 22, *Worman v. Healy*, 293 F. Supp. 3d 251 (D. Mass. 2018).

1 became illegal to hold certain long guns that might be used in mass shootings. The
 2 effect was that both while there were 7 public mass shootings in Australia during
 3 the seventeen-year period 1979–96 (a per capita rate that was higher than in the
 4 U.S. at the time), there have been none in the 23 years since (in contrast to the bleak
 5 trend in public mass shootings in the United States⁸⁵). Adjusting for the relative
 6 populations of the two countries, it would be as though there were 103 separate
 7 mass shooting events in the 18 years prior to the massive Australian gun buyback
 8 and none in the 23 years since.⁸⁶

9 114. The important point of the Australian experience for present purposes
 10 is that by depriving disturbed individuals of the vehicle by which they imagined
 11 they would unleash their murderous impulses, Australia showed that strong gun
 12 control measures such as bans on semiautomatic rifles could dramatically reduce
 13 the number of mass shootings – even if guns are still widely available, as they
 14 remain in Australia.

15 **Some Responses to Points in Submissions by the Plaintiffs**

16 115. While defensive gun ownership is designed to prevent violence, the
 17 intent of the public mass shooter is to kill as many people as possible. Accordingly,
 18 the lethal capacity of the weapon will influence that toll of these homicidal events
 19 (as opposed to the defensive setting when brandishing typically achieves its goal).
 20 As Klarevas, Koper, and courts have observed, assault weapons with large capacity
 21 magazines are disproportionately used in mass shootings.⁸⁷ When such weapons
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23 ⁸⁵ Dan Diamond, “Mass Shootings Are Rising. Here's How To Stop Them,” *Forbes*, June
 24 18, 2015 (depicting the accelerating trend in the U.S. versus the benign trend in Australia),
 25 <https://www.forbes.com/sites/dandiamond/2015/06/18/charleston-deaths-are-an-american-tragedy-mass-shootings-are-rising/#12bd32ef787b>.

26 ⁸⁶ The population of Australia in 1996 was 18.3 million and the population of the US in
 the same year was 269.4 million, according to data from the World Bank.

27 ⁸⁷ Christopher Ingraham, *It's Time to Bring Back the Assault Weapons Ban, Gun Violence*
 28 *Experts Say*, Washington Post, February 15, 2018,
<https://www.washingtonpost.com/news/wonk/wp/2018/02/15/its-time-to-bring-back-the-assault-weapons-ban-gun-violence-experts-say/>; Koper 2004 Assessment at 14, 18.

1 are deployed in mass shootings, they “result in ‘more shots fired, persons wounded,
2 and wounds per victim than do other gun attacks.’”⁸⁸ Among the mass shootings
3 identified in a 2016 study by Everytown for Gun Safety, use of a large capacity
4 magazine, or assault weapon that likely included a large capacity magazine, was
5 associated with more than twice as many people being shot and nearly 50 percent
6 more people being killed.⁸⁹

7 116. Many mass shooters seem to prefer using assault weapons, and mass
8 shootings in which assault weapons are used tend to result in worse outcomes.
9 Some estimates suggest that around 11-13 percent of mass shootings are with
10 assault weapons but these numbers tend to be biased downward.⁹⁰ For example,
11 Christopher S. Koper et al. examine a sample of 145 mass shooting incidents (with
12 incomplete weapons data) from 2009-2015 and estimated that assault weapons were
13 used in at least 10.3 percent of all incidents.⁹¹ This figure, however, rose to 35.7
14 percent when limiting the sample to the 42 cases where there is sufficiently detailed
15 information to definitively determine whether an assault weapon was used.⁹²
16 Research by Luke Dillon shows that mass shooting incidents using assault weapons
17 result in more people injured and more total victims.⁹³

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20 ⁸⁸*N.Y.S. Rifle*, 804 F.3d at 264 (quoting *Heller v. District of Columbia*, 670 F.3d 1244,
21 1263 (D.C. Cir. 2011)).

22 ⁸⁹Mass Shootings in the United States: 2009 – 2016, Appendix of Shootings Profiled,
23 <https://everytownresearch.org/documents/2017/03/appendix-mass-shootings-united-states-2009-2016.pdf>

24 ⁹⁰Everytown for Gun Safety, *Analysis of Recent Mass Shootings*, July 2014, available at
25 <https://everytownresearch.org/documents/2015/04/analysis-of-recent-mass-shootings.pdf> (last
26 visited Oct. 12, 2018) at 4; Mark Follman, Gavin Aronsen, and Deanna Pan, “A Guide to Mass
27 Shootings in America,” *Mother Jones* (Sept. 20 2018).

28 ⁹¹Christopher S. Koper et al., “Criminal Use of Assault Weapons and High Capacity
Semi-Automatic Firearms: An Updated Examination of Local and National Sources,” 95(3)
Journal of Urban Health 313-321 (2017) at 317.

⁹²Christopher S. Koper et al. 2017, Finding at 317.

⁹³Luke Dillon, *Mass Shootings in the United States: An Exploratory Study of the Trends
from 1982-2012*, Fall 2013, available at <http://mars.gmu.edu/xmlui/handle/1920/8694>.

117. Assault weapons also pose particular dangers and problems to law enforcement. Because of the types of rounds typically fired by assault weapons as well as the muzzle velocities they tend to have, assault weapons are “capable of penetrating the soft body armor customarily worn by law enforcement.”⁹⁴ The ability to fire rapidly also allows criminals to more effectively engage with responding police officers, even from a significant distance.⁹⁵ Empirical research by the Violence Policy Center shows that “one in five law enforcement officers slain in the line of duty was killed with an assault weapon,” despite the relative rarity of assault weapon use in crime in general.⁹⁶ Christopher S. Koper et al. find that assault weapons, virtually all of which were assault rifles, “accounted for 13.2% of the firearms used in [police murders]” from 2009-2013 (note that this excludes cases involving the officer’s own firearm).⁹⁷ Many law enforcement officers and agencies report that the possibility of encountering criminals with assault weapons necessitates that they spend a great deal of time and resources preparing for such encounters.⁹⁸

118. Assault weapons, acquired in the United States, are particularly popular weapons for drug traffickers and gang members, both in the United States and in Mexico.⁹⁹

119. Beyond the unmistakable evidence that the federal assault weapons ban reduced deaths from public mass shootings, there is also evidence that the federal assault weapons ban was effective in limiting all criminal use of assault

⁹⁴Brown Decl. ¶ 23, *Kolbe v. O’Malley*, 42 F. Supp. 3d 768 (D. Md. 2014).

⁹⁵Kyes Decl. ¶ 15-17, *Worman v. Healy*, 293 F. Supp. 3d 251 (D. Mass. 2018).

⁹⁶Violence Policy Center, *Officer Down: Assault Weapons and the War on Law Enforcement*, May 2003, available at <http://www.vpc.org/studies/officer%20down.pdf> (last visited Oct. 12, 2018) at 5.

⁹⁷Christopher S. Koper et al. 2017, Finding at 317.

⁹⁸Brady Center to Prevent Gun Violence 2008 at 4-6.

⁹⁹Id. at 3-6; Violence Policy Center, *Assault Pistols: The Next Wave*, January 2013, available at http://www.ncdsv.org/images/VPC_AssaultPistolsTheNextWave_1-2013.pdf (last visited Oct. 12, 2018) at 1-2; Spitzer Aff. ¶ 4, *Worman v. Healy*, 293 F. Supp. 3d 251 (D. Mass. 2018).

1 weapons. Brady Center to Prevent Gun Violence analysis suggests that the share of
 2 gun crimes committed with assault weapons declined following the institution of
 3 bans.¹⁰⁰ This study used the share of Bureau of Alcohol, Tobacco, and Firearms
 4 (ATF) firearm traces that are of assault weapons as a dependent variable, even
 5 though it is likely that this measure is marred by changes in the nature and
 6 frequency of gun tracing behavior by ATF.¹⁰¹ The Police Executive Research
 7 Forum found that the relative usage of assault weapons in crime increased after the
 8 ban's end, with 38 percent of police agencies reporting that criminals' use of assault
 9 weapons had increased.¹⁰²

10 120. No one has a greater desire or use for an assault weapon than a
 11 determined mass killer. A ban on such assault weapons is an important tool and
 12 prudent step in the effort to stop and/or diminish the harm from the most egregious
 13 homicidal rampages.

14 121. An argument that assault weapons are in "common use" and cannot be
 15 banned in California because a large number of individuals throughout the United
 16 States have assault weapons today is flawed. The current level of ownership cannot
 17 be taken as an expression of American approval of assault weapons. The existing
 18 stock of guns is a function of legislation and marketing and it provides a very
 19 slippery basis for determining what guns are presumptively legal or subject to
 20 appropriate prohibition, which should be determined from a more fact-based
 21 assessment of the nature of the threats and the relevant safety considerations.

22 ¹⁰⁰Brady Center to Prevent Gun Violence, *On Target: The Impact of the 1994 Federal*
 23 *Assault Weapons Ban*, March 2004, available at
 24 https://www.bradycampaign.org/sites/default/files/on_target.pdf (last visited Oct. 12, 2018).

25 ¹⁰¹Violence Policy Center, *A Further Examination of Data Contained in the Study On*
 26 *Target Regarding Effects of the 1994 Federal Assault Weapons Ban*, April 2004, available at
 27 <http://vpc.org/graphics/AWAnalysisFinal.pdf> (last visited Oct. 12, 2018) at 7-8.

28 ¹⁰²Police Executive Research Forum, *Guns and Crime: Breaking New Ground By*
 Focusing on the Local Impact, May 2010, available at
https://www.policeforum.org/assets/docs/Critical_Issues_Series/guns%20and%20crime%20-%20breaking%20new%20ground%20by%20focusing%20on%20the%20local%20impact%202010.pdf (last visited Oct. 12 2018) at 2.

122. As the Fourth Circuit held in upholding Maryland’s assault weapons ban in 2017: “the issue is whether the banned assault weapons and large-capacity magazines possess an amalgam of features that render those weapons and magazines like M16s and most useful in military service. The uncontroverted evidence ... is that they do.”¹⁰³ The ability and right of citizens to enact safety promoting measures designed to deal with the serious and growing problem of public mass shootings should not be affected by how quickly gun manufacturers can sell their products before regulations can be put into place.

123. In 2016, fourteen-year old Jesse Osborne of South Carolina wanted to top the death toll of Adam Lanza, and he made numerous attempts to get his father’s assault weapon from a gun safe as he planned a school shooting at a nearby elementary school. When that failed, he took his father’s loaded handgun from his bed dresser and killed his father before heading to the school where he opened fire on the playground, killing a 6-year-old boy before his gun jammed. As the Wall Street Journal study referenced above found, a sizeable proportion of students aged 12-18 had access to firearms without adult permission. For students and others who harbor homicidal fantasies similar to Jesse Osborne, the most powerful and deadly weapons will be most helpful for their criminal designs.¹⁰⁴

Responding to the Lott Declaration

124. John Lott has submitted a declaration on behalf of the plaintiffs. As an initial matter, Lott has been roundly criticized by many experts in the field, including experts who regularly consult for the plaintiffs in Second Amendment cases. For example, during his deposition in *Rupp v. Becerra*, Gary Kleck, who

¹⁰³ *Kolbe v. Hogan*, (4th Circuit Court of Appeals, February 21, 2017), <https://cases.justia.com/federal/appellate-courts/ca4/14-1945/14-1945-2017-02-21.pdf?ts=1487707284>.

¹⁰⁴ Tawnell D. Hobbs, “Most Guns Used in School Shootings Come From Home,” *The Wall Street Journal*, <https://www.wsj.com/articles/in-school-shootings-most-guns-come-from-home-1522920600>, April 5, 2018.

1 was one of the plaintiffs' expert witnesses in that case, testified that he did not
 2 believe that John Lott is a credible criminologist.¹⁰⁵

3 125. Lott's analysis in this case is deeply flawed in numerous aspects. For
 4 example, on pages 6 and 7 of his declaration, Lott states the following:

5
 6 In fact, based on my research, every place that has banned guns (either
 7 all guns or all handguns) has seen murder rates go up. Examples
 8 include Chicago, Illinois, Washington D.C., and island nations such as
 9 England, Jamaica, Ireland, Venezuela, and obscure places like the
 10 Solomon Islands. The original research is available in Lott, *More
 11 Guns, Less Crime*, University of Chicago Press, 2010, Third edition.
 Support for my opinion is found at
[https://crimeresearch.org/2016/04/murder-and-homicide-rates-before-
 and-after-gun-bans/](https://crimeresearch.org/2016/04/murder-and-homicide-rates-before-and-after-gun-bans/)

12 The statement is both irrelevant and incorrect.

13 126. First, the statement is irrelevant because Lott's opinion is based on
 14 bans on "all guns or all handguns," and does not address assault weapons under the
 15 AWCA. A far more relevant comparison would be the previously-discussed assault
 16 weapons ban in Australia that dramatically reduced the country's mass shooting
 17 problem.

18 127. Although the ban was highly controversial when enacted in 1996, the
 19 results have been so unambiguously positive for the country that there is now
 20 overwhelming support for it throughout Australia, as repeatedly shown in public
 21 opinion polls. The last, by Essential Research in 2016, confirmed that 44 percent
 22 thought Australians gun restrictions were "about right" and 45 percent thought the
 23 laws were "not strong enough."¹⁰⁶ Against this 89 percent in support of gun
 24 restrictions, only 6 percent thought the laws were "too strong." Significantly, the
 25

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 27 ¹⁰⁵ Deposition of Gary Kleck, *Rupp v. Becerra*, dated Dec. 12, 2018, at 59.

28 ¹⁰⁶ Essential Research, "[Gun laws](#)", 1 November 2016.

1 poll specifically noted that these views were now consistent regardless of political
2 party voting tendency for Labor, Coalition, or Greens voters.

3 128. Second, Lott's irrelevant claim is also incorrect. Even if there have
4 been some instances where murder rates have risen following gun bans, this is
5 typically because gun bans are enacted when there is a growing crime menace. We
6 don't dismiss the value of flu shots taken in September because episodes of flu are
7 greater in December. It only means that the suppressive effect of the vaccinations
8 is exceeded by the factors causing the disease. It certainly would not mean that flu
9 shots did not reduce the problem, and any claim to that effect would be both
10 conceptually flawed and unsupported by evidence.

11 129. Lott's claim is based on flawed data. The link at the end of the quoted
12 statement by Lott above attempts to explain away the momentous drop in the
13 murder rate in Japan after its post-war gun ban was implemented by incorrectly
14 stating that "Japan has had a very low murder rate for as long as data is
15 available...." But this is not true.

16 130. In fact, we can turn to Mark Ramsayer, a coauthor of John Lott, who
17 documents the dramatic drop in the murder rate after guns were banned in Japan, as
18 seen in Figure 3 below. Note that the murder rate in Japan before the Japanese
19 handgun ban was more than three and a half times that of Australia or Western
20 Europe today, where stringent gun control is the norm. Indeed, Figure 3 makes the
21 point that the murder rate for Japan was well above that of white Americans in
22 1950, and Japan's murder rate consistently fell by more than 75 percent over the
23 next six decades (while the US rate steadily climbed throughout the 1960s and
24 1970s).

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28 **Figure 3**

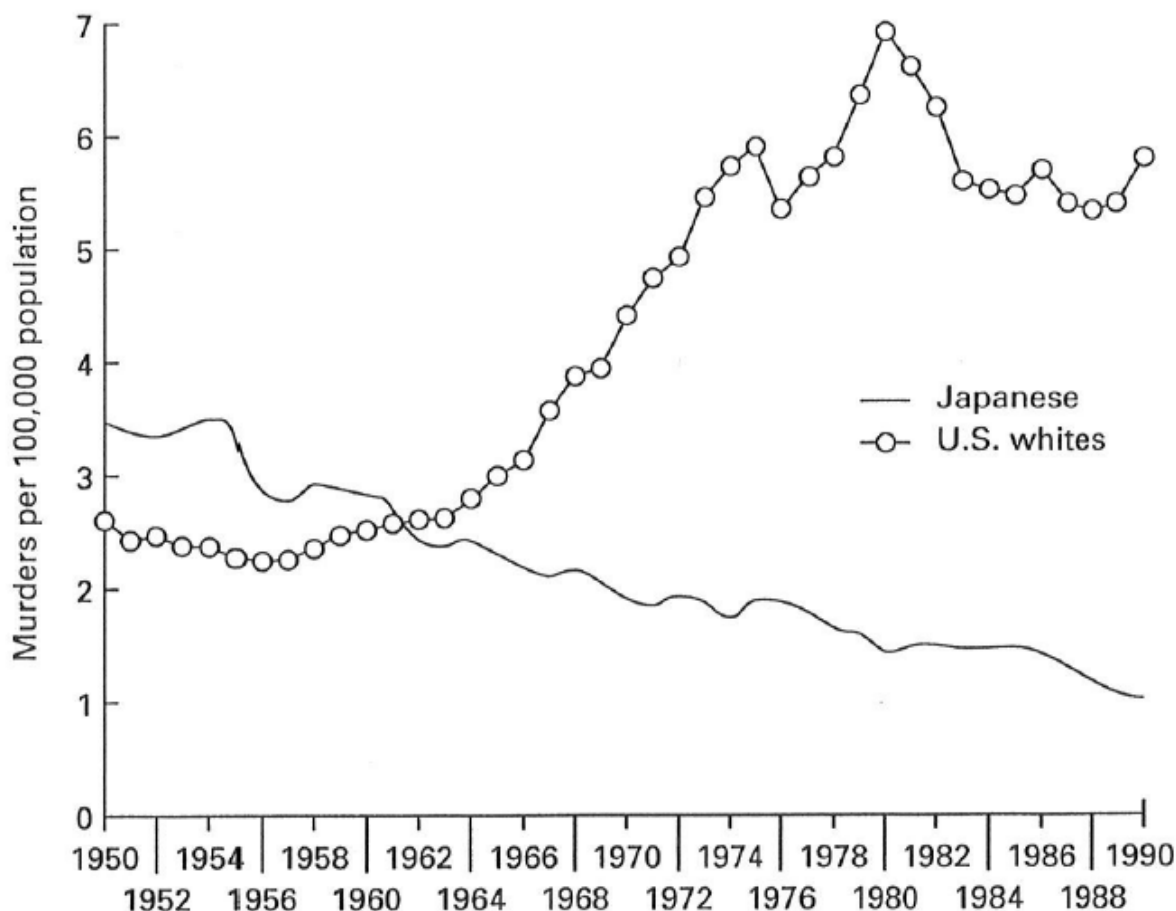


Figure from J. Mark Ramseyer & Minoru Nakazato, *Japanese Law: An Economic Approach* (1999).

131. In addition to making this initial error, Lott tells us that gun bans do not work because “criminals do not buy their firearms legally.” We have already discussed this issue above, and once again, Lott is misguided in multiple dimensions.

132. Lott’s first mis-step in this claim is that he cites a study of prisoners in custody. But the prison population would not provide accurate data on where public mass shooters get their weapons because most of mass shooters die at the

1 scene. As noted above in footnote 23, the FBI study of 160 active shooter incidents
2 found that in 59 percent of these incidents (94 of 160) the shooter is either killed or
3 commits suicide. Thus, the single most deadly mass killer, Stephen Paddock, did
4 indeed buy all his assault weapons legally before he rained down terror on a Las
5 Vegas music festival, but he could never appear in a prisoner interview (since he
6 killed himself as the police closed in).

7 133. Moreover, as we stated above, an enormous source of guns used by
8 teens in school shootings come from the home and the ability to kill is greatly
9 enhanced if the gun at home is an assault weapon with a high-capacity magazine
10 (see footnote 22, above). Adam Lanza could not have made this point any more
11 powerfully when he used his mother's assault rifle to kill 26 (also killing himself as
12 the police closed in). Of course, this is part of the larger problem of the enormous
13 rates of gun thefts in the United States each year – in the neighborhood of 400,000
14 stolen. The more assault weapons lying around in the home of law-abiding
15 citizens, the more will be made available to criminals via these enormous rates of
16 theft.

17 134. In his report, Lott attempts to discredit studies that find that the federal
18 assault weapons ban was effective and to express support for those that find no
19 effect. His attempts are flawed.

20 135. For example, Lott cites very early work by Christopher Koper
21 (conducted well before a final empirical assessment was possible) that didn't find a
22 strong effect of the federal assault weapons ban but ignores the fact that Koper's
23 continued research in this area made the important point that one would see a
24 bigger impact on mass shootings and killings of police than on overall homicides.
25 As Koper told the *New York Times* in language that well applies to Lott's claims,
26 "My work is often cited in misleading ways that don't give the full picture.... These
27
28

1 laws can modestly reduce shootings overall” and reduce the number and severity of
2 mass shootings.¹⁰⁷

3 136. Then Lott favorably cites the deeply flawed study of Gary Kleck, who
4 presented this study on behalf of the NRA in trying to oppose New Jersey’s
5 restrictions on high-capacity magazines. The trial court rejected Kleck’s study (and
6 the NRA claims), finding Kleck’s “methodologies and conclusions were flawed.”¹⁰⁸
7 An example of the misconceived nature of Kleck’s study can be seen in his effort to
8 show that mass shooters shoot so slowly that high-capacity magazines don’t help
9 them kill more. To show this, he looked at the Virginia Tech killing and counted
10 the number of shots fired and the duration of the assault in minutes, reaching the
11 wholly implausible conclusion that there was only about 1 shot fired per minute as
12 the shooter killed 32 and wounded 17. But Kleck grossly overstates the number of
13 minutes of the assault by starting the clock hours before the main campus assault
14 when the shooter killed two at an off-campus residence. In fact, the shooting
15 episode on campus lasted nine minutes, while Kleck’s miscalculation led him to
16 conclude that the 172 shots fired came at the leisurely pace of one every 54
17 seconds.

18 137. The bigger point here is that you can’t just average shots/minute since
19 the advantage of an semiautomatic weapon is that it permits the shooter to shoot
20 rapidly when he needs or wants to (such as when someone tries to flee or tries to
21 attack the shooter), and large-capacity magazines allow this continuous stream of
22 fire to be extended without the need to reload as frequently.

23 138. Lott then engages in an extended effort to contradict Klarevas’s
24 finding that the federal assault weapons ban reduced mass shooting deaths during
25 the decade it was in place and these deaths jumped sharply thereafter. Lott’s

26 ¹⁰⁷ Linda Qiu and Justin Bank, “Major Shootings Led to Tougher Gun Laws, but to
27 What End?” *The New York Times*, Feb. 23, 2018,

<https://www.nytimes.com/2018/02/23/us/politics/fact-check-mass-shootings-gun-laws.html>.

28 ¹⁰⁸ Association Of New Jersey Rifle and Pistol Clubs v. Attorney General of New Jersey
(3d Cir., December 5, 2018).

critique fails for two reasons. First, he completely miscalculates mass shootings conducted with weaponry banned by the federal law. Second, he only works with data through 2014 (as Klarevas had done), but my work has greatly strengthened Klarevas' conclusion by having data through 2019.

139. In trying to minimize the impact of the federal assault weapons ban, Lott only counts a fraction of the crimes committed with federally banned weaponry. He ignores the critical importance that the assault weapons ban included a limit on the size of large-capacity magazines. Thus, all guns that could accept magazines, whether handguns or assault weapons, are less deadly when high-capacity magazines were restricted. My empirical evaluation of data through 2019 has emphasized that restrictions on high-capacity magazines are essential if one wants to reduce the risk of Las Vegas style killings that enable hundreds of individuals to be shot.¹⁰⁹ The evidence that the federal assault weapons bans reduced deaths from public mass shootings is powerful and unrefuted.

Responding to the Curcuruto Declaration

140. Mr. Curcuruto opines that "modern sporting rifles" are commonly used by Americans for variety of lawful purposes. His opinion, however, is incorrect because it relies on incorrect assumptions and flawed data. As an initial matter, his opinion relies on a series of surveys by the National Shooting Sports Foundation (NSSF). The NSSF surveys appear to have surveyed only hunters and target shooters, owners of "modern sporting rifles," or firearms retailers. These surveys naturally reflect selection-bias and are unreliable as an indicator of the prevalence of AR-15 style rifles or the uses for the AR-15 style rifles by the general public,

¹⁰⁹ Arguments such as Lott's that focus solely on one component of the assault weapons ban – the gun itself – without considering the importance of the other component of the assault weapons ban – the restriction to only ten bullets in the magazine – cannot hope to provide a useful evaluation of the beneficial effect of the ban in reducing mass shooting deaths. This issue is discussed more fully in John Donohue and Theodora Boulouta, "The Assault Weapon Ban Saved Lives," *Stanford Law School Legal Aggregate*, October 15, 2019, <https://stanford.io/2MWNsrV>.

1 much less for assault weapons as defined by the AWCA.¹¹⁰ Curcuruto also cites a
 2 report that shows approximately 11 million AR-platform rifles were manufactured
 3 for sale in the United States between 1990 and 2016. (Curcuruto ¶ 8.)¹¹¹

4 141. The fundamental flaw in Curcuruto's calculation is that he assumes,
 5 incorrectly, that all AR-platform rifles or "modern sporting rifles" are considered
 6 assault weapons under the AWCA. That is simply not true. The AWCA prohibits
 7 only semiautomatic rifles that are centerfire, lack a fixed magazine, and has one or
 8 more of the prohibited features. Curcuruto, however, counts AR-15 platform rifles
 9 as assault weapons whether they are rimfire rifles (and thus not prohibited under
 10 California law) or centerfire rifles (which may, or may not, be prohibited,
 11 depending on the presence or absence of other features or a fixed magazine). Thus,
 12 Curcuruto's focus on AR-15 platform rifles or "modern sporting rifles" includes
 13 many weapons that are not restricted under the AWCA and irrelevant to this case.
 14 Similarly, Curcuruto includes in his counts AR-15 platform rifles that could be
 15 either featureless or equipped with fixed magazines. In neither case would these
 16 weapons be considered assault weapons under California law. In short, Curcuruto
 17 has no evidence how many firearms in the United States are considered assault
 18 weapons under the AWCA.

19 142. Regardless of the number of assault weapons, what we do know is AR-
 20 15 platform rifles, of which assault weapons are a subset, are not commonly owned
 21 or used because ownership of those firearms is highly concentrated and growing
 22 more so. The evidence that gun ownership is concentrated is strong and
 23 uncontradicted. Researchers analyzing the results of a 2015 national survey found
 24 that 8% of individual gun owners reported owning ten or more firearms—

25 _____
 26 ¹¹⁰ Indeed, the NSSF reports that Curcuruto relies on show that its respondents owned 2.6
 27 "modern sporting rifles" in 2010, which increased to 3.1 such rifles in 2013. (Curcuruto Exhibit 4
 at 13.)

28 ¹¹¹ Elsewhere, Curcuruto cites a NSSF report that estimated 17.7 million modern sporting
 rifles produced in or imported into the United States between 1990-2017. (Curcuruto ¶ 15.)

1 collectively accounting for 39% of the American gun stock—and that 20% of gun
 2 owners, who owned the most guns collectively, possessed about 60% of the nation's
 3 guns.¹¹² A decade earlier, researchers found a similar pattern: a 2004 survey
 4 indicated that 48% of gun owners possessed four or more guns and that the top 20%
 5 of firearms owners possessed 65% of all firearms.¹¹³

6 143. Curcuruto's own evidence supports this. The NSSF Report shows that
 7 the survey respondents owned an average of 2.6 "modern sporting rifles" in 2010,
 8 which increased to 3.1 such rifles in 2013. (Curcuruto Exhibit 4 at 17.) It also
 9 shows that 66 percent of owners of AR- or AK-platform rifles own two or more
 10 such rifles; over 30 percent of them report owning three or more such rifles; and
 11 over 25 percent of them own four or more such rifles. (Curcuruto Exhibit 4 at 18,
 12 24.)

13 144. Because reliable social science data shows that the number of
 14 households that own guns has likely dropped in recent decades, and certainly has
 15 not grown, it seems most likely that robust gun sales can be attributed not to
 16 increasingly broad gun ownership but instead largely to purchases of guns by
 17 members of households that previously owned guns. While the precise number of
 18 American households that own assault weapons nationally is uncertain,¹¹⁴ it is clear
 19 that most gun-owning households do not possess these types of weapons.

20 145. Accordingly, the share of households containing an assault weapon
 21 will only be a subset of gun owners. This minority status of assault weapon
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23 ¹¹² See Azrael et al., *supra*.

24 ¹¹³ Hepburn et al., "The US Gun Stock: Results from the 2004 National Firearms Survey,"
 25 Injury Prevention 2007;13:15–19.

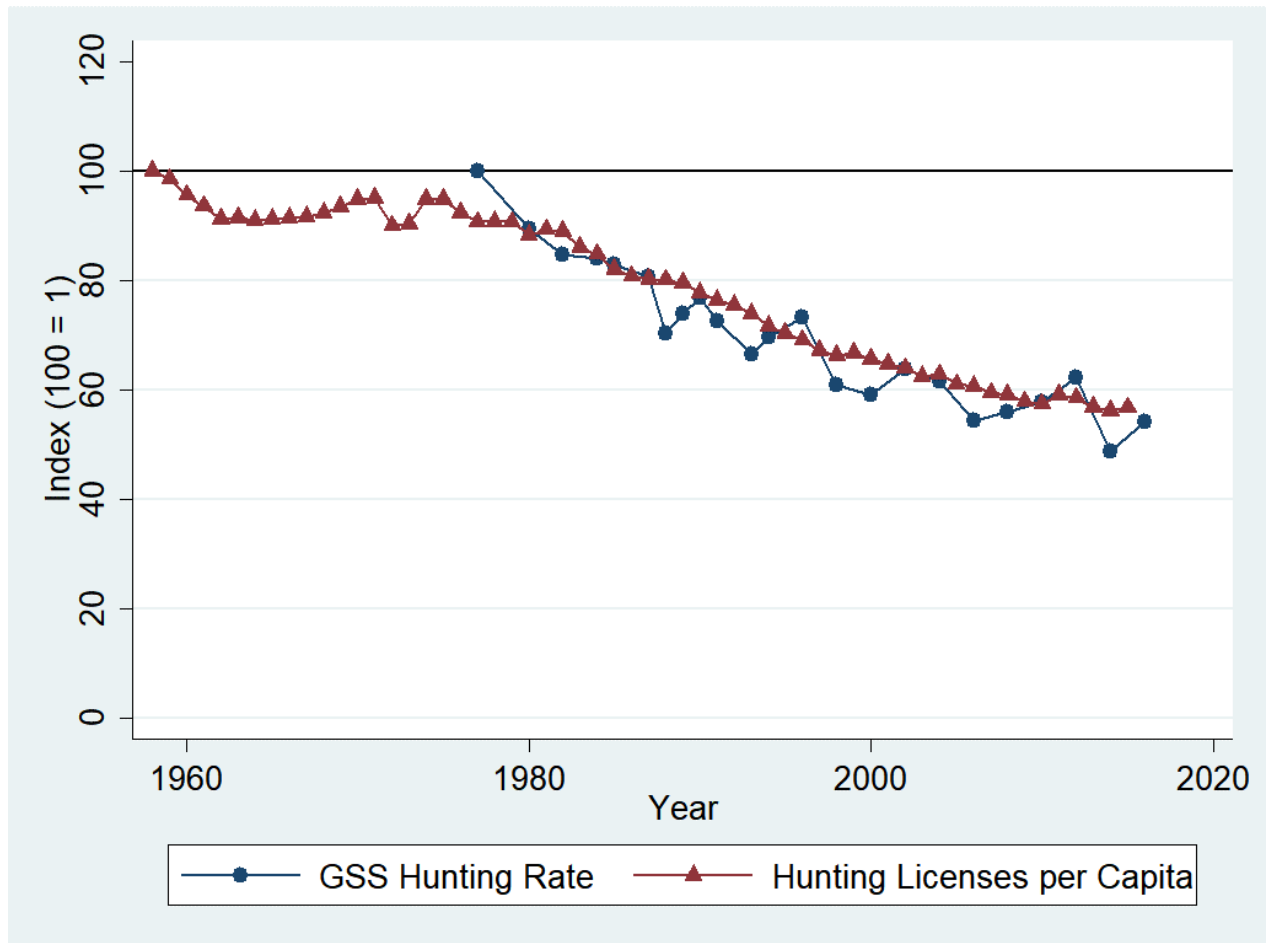
26 ¹¹⁴ Kate Irby, "Nobody knows exactly how many assault rifles exist in the U.S. – by design,"
 27 *McClatchy*, February 23, 2018, <https://www.mcclatchydc.com/news/nation-world/national/article201882739.html>. References to the number of guns manufactured in or
 28 imported into the U.S. can be misleading since they may fail to distinguish between guns provided to the military or guns subsequently transported, legally or illegally, to other countries.

1 ownership by household reflects the judgment of most Americans that assault
2 weapons are not important to their self-defense.

3 146. Plaintiffs and Mr. Curcuruto also state that “modern sporting rifles”
4 are used for hunting. (Curcuruto Decl. ¶ 7.) However, while these firearms may be
5 used for hunting, they are not often used for that purpose. The 2019 NSSF report
6 relied on by Curcuruto show that, of all weapons, “modern sporting rifles” were the
7 least used for hunting, tied with handguns. (Curcuruto Exhibit 6 at 151.) The most
8 popular weapons for hunting are shotgun, the traditional rifle, and archery
9 equipment. Even black powder firearms or muzzleloaders are more frequently used
10 for hunting than “modern sporting rifles.” (*Id.*)

11 147. We also know that the population of hunters in the United States has
12 declined dramatically. The General Social Survey has documented a dramatic,
13 long-term decline in the number of Americans around the country who engage in
14 hunting, and this decline is perfectly reflected in a similarly declining number of
15 hunting licensees per capita. In the figure below, I plot the evolution of the GSS-
16 reported hunting rate alongside hunting licensees per capita, and both indicate that
17 Americans’ tastes for hunting have abated steadily and substantially since the late
18 1970s. In 1977, 31.6% of adults reported being a hunter or married to one, in 2016
19 the corresponding rate was only 17.1%.

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148. Indeed, it was the dramatic decline in hunting, along with the concomitant decline in sales of long guns that led the gun industry to start actively promoting “assault rifles” in the 1980s as a way to boost flagging sales (see the industry advertisement of “assault rifles pictured above in paragraphs 76-81).

149. The 2019 NSSF report relied on by Curcuruto also documents that in the overall population of Americans who considers themselves to be hunters or sports shooters (or both), the proportion of hunters is declining sharply. (Curcuruto Exhibit 6 at 141.). The report shows that within a mere six-year period between 2012-2018, the proportion who consider themselves to be hunters fell by a

1 whopping 14.5 per cent percentage points, and, as of 2018, the majority of the
 2 hunting-shooting population were non-hunter.¹¹⁵

3 150. Moreover, while some of the declining population of hunters are
 4 inclined to use assault weapons, many hunters actively disdain this practice and
 5 view it as inconsistent with the true sport of hunting. As one self-described Second
 6 Amendment supporter has written: “Hunters themselves find the rifle controversial,
 7 with some arguing AR-15-style rifles empower sloppy, ‘spray and pray’ hunters to
 8 waste ammunition.”¹¹⁶

9 151. The article goes on to capture a common refrain in the hunting
 10 community, citing the following comment to an article in the NRA publication
 11 americanhunter.org: “I served in the military and the M16A2/M4 was the weapon I
 12 used for 20 years. It is first and foremost designed as an assault weapon platform,
 13 no matter what the spin. A hunter does not need a semi-automatic rifle to hunt, if he
 14 does he sucks, and should go play video games. I see more men running around the
 15 bush all cammo’d up with assault vests and face paint with tricked out AR’s. These
 16 are not hunters but wannabe weekend warriors.”

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 26 ¹¹⁵ According to the 2019 NSSF report, “There has been a steady trend among the entire
 27 hunting-shooting population moving to non-hunting, with 38.7% of this population being non-
 28 hunters in 2012, 44.2% in 2014, 51.4% in 2016, and now 53.2% being non-hunters in
 2018.” Curcuruto Exhibit 6, at 141.

¹¹⁶ <https://slate.com/news-and-politics/2016/06/gun-control-ar-15-rifle-the-nra-claims-the-ar-15-rifle-is-for-hunting-and-home-defense-not-exactly.html>).

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on January 23, 2020 at
3 Stanford, California.

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7 _____
8 John J. Donohue
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EXHIBIT A

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http://works.bepress.com/john_donohue/

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EMPLOYMENT

Full-time Positions

- Stanford Law School, C. Wendell and Edith M. Carlsmith Professor of Law, September 2010 to the present.
- Yale Law School, Leighton Homer Surbeck Professor of Law, July 2004 to August 2010.
- Stanford Law School, Professor of Law, September 1995 to June 2004.
 - William H. Neukom Professor of Law, February 2002 – June 2004.
 - John A. Wilson Distinguished Faculty Scholar, March 1997 – January 2002.
 - Academic Associate Dean for Research, since July 2001 – July 2003.
 - Stanford University Fellow, September 2001 – May 2003.
- Northwestern University School of Law:
 - Class of 1967 James B. Haddad Professor of Law, September 1994-August 1995
 - Harry B. Reese Teaching Professor, 1994-1995
 - Professor of Law, May 1991-September 1994
 - Associate Professor, May 1989-May 1991
 - Assistant Professor, September 1986-May 1989.
- Research Fellow, American Bar Foundation, September 1986-August 1995.
- Associate Attorney, Covington & Burling, Washington, D.C., October 1978-July 1981 (including last six months as Attorney, Neighborhood Legal Services)
- Law Clerk to Chief Justice T. Emmet Clarie, U.S. District Court, Hartford, Connecticut, September 1977-August 1978.

Temporary Appointments

- Visiting Professor, Bocconi University, Milan, Italy, October- November 2012, April 2014, and June 2015.
- 2011 Faculty Scholar in Residence, University of Denver Sturm College of Law, April 21-22, 2011.
- Visiting Fellow, The Milton Friedman Institute for Research in Economics, University of Chicago, October 2009
- Schmidheiny Visiting Professor of Law and Economics, St. Gallen University, November – December, 2007.
- Visiting Lecturer in Law and Economics, Gerzensee Study Center, Switzerland, June 2007.
- Visiting Professor, Tel Aviv University School of Law, May 2007.

- Herbert Smith Visitor to the Law Faculty, University of Cambridge, England, February 2006.
- Visiting Professor, Harvard Law School, January 2003.
- Fellow, Center for Advanced Studies in the Behavioral Sciences, Stanford, California, Academic year 2000-01.
- Visiting Professor, Yale Law School, Fall, 1999.
- Professor, Center for the Study of American Law in China, Renmin University Law School, Beijing, July 1998.
- Visiting Professor of Law and Economics, University of Virginia, January 1997.
- Lecturer, Toin University School of Law, Yokohama, Japan, May-June 1996.
- Cornell Law School, Distinguished Visiting Fellow in Law and Economics, April 8-12, 1996 and September 25-29, 2000
- Visiting Professor, University of Chicago Law School, January 1992-June 1992.
- Visiting Professor of Law and Economics, University of Virginia Law School, January 1990-May 1990.
- Fellow, Yale Law School Program in Civil Liability, July 1985-August 1986.
- Private Practice (part-time), New Haven, Connecticut, September 1981-August 1986.
- Instructor in Economics, Yale College, September 1983-August 1985.
- Summer Associate, Donovan Leisure Newton & Irvine, New York, Summer 1982.
- Summer Associate, Perkins, Coie, Stone, Olsen & Williams, Seattle, Washington, Summer 1976.
- Research Assistant, Prof. Laurence Lynn, Kennedy School of Government, Harvard University, Summer 1975.
- LSAT Tutor, Stanley Kaplan Education Center, Boston, Massachusetts; Research Assistant, Prof. Philip Heymann, Harvard Law School; Research Assistant, Prof. Gordon Chase, Harvard School of Public Health. (During Law School).

EDUCATION

Yale University, 1981-1986

- University Fellow in Economics; M.A. 1982, M. Phil. 1984, Ph.D. 1986.
 - Dissertation: "A Continuous-Time Stochastic Model of Job Mobility: A Comparison of Male-Female Hazard Rates of Young Workers." Awarded with Distinction by Yale.
 - Winner of the Michael E. Borus Award for best social science dissertation in the last three years making substantial use of the National Longitudinal Surveys--awarded by the Center for Human Research at Ohio State University on October 24, 1988.
- National Research Service Award, National Institute of Health.
- Member, Graduate Executive Committee; Graduate Affiliate, Jonathan Edwards College.

Harvard Law School, 1974-1977 (J.D.)

- Graduated Cum Laude.
- Activities: Law Clerk (Volunteer) for Judge John Forte, Appellate Division of the District Court of Central Middlesex; Civil Rights, Civil Liberties Law Review; Intra-mural Athletics; Clinical Placement (Third Year): (a)

First Semester: Massachusetts Advocacy Center; (b) Second Semester: Massachusetts Attorney General's Office--Civil Rights and Consumer Protection Divisions. Drafted comments for the Massachusetts Attorney General on the proposed U.S. Department of Justice settlement of its case against Bechtel Corporation's adherence to the Arab Boycott of Israeli companies.

Hamilton College, 1970-1974 (B.A.)

- Departmental Honors in both Economics and Mathematics
 - Phi Beta Kappa (Junior Year)
- Graduated fourth in class with the following academic awards:
 - Brockway Prize (Highest GPA Freshman Year)
 - Edwin Huntington Memorial Mathematical Scholarship
 - Fayerweather Prize Scholarship
 - Oren Root Prize Scholarship in Mathematics
- President, Root-Jessup Public Affairs Council.

PUBLICATIONS

Books and Edited Volumes:

- Law and Economics of Discrimination, Edward Elgar Publishing, 2013.
- Employment Discrimination: Law and Theory, Foundation Press, 2005, 2009 (2d edition) (with George Rutherglen).
- Economics of Labor and Employment Law: Volumes I and II, Edward Elgar Publishing, 2007. http://www.e-elgar.co.uk/bookentry_main.lasso?id=4070
- Foundations of Employment Discrimination Law, Foundation Press, 2003 (2d edition).
- Foundations of Employment Discrimination Law, Oxford University Press, 1997 (Initial edition).

Book Chapters:

- "Drug Prohibitions and Its Alternatives." Chapter 2 in Cook, Philip J., Stephen Machin, Olivier Marie, and Giovanni Mastrobuoni, eds, *Lessons from the Economics of Crime: What Reduces Offending?* MIT Press. 45-66 (2013).
- "The Death Penalty," Chapter in Encyclopedia of Law and Economics, Spring (2013).
- "Rethinking America's Illegal Drug Policy," in Philip J. Cook, Jens Ludwig, and Justin McCrary, eds, Controlling Crime: Strategies and Tradeoffs (2011), pp.215-289 (with Benjamin Ewing and David Peloquin).
- "Assessing the Relative Benefits of Incarceration: The Overall Change Over the Previous Decades and the Benefits on the Margin," in Steven Raphael and Michael Stoll, eds., "Do Prisons Make Us Safer? The Benefits and Costs of the Prison Boom," pp. 269-341 (2009).

- "Does Greater Managerial Freedom to Sacrifice Profits Lead to Higher Social Welfare?" In Bruce Hay, Robert Stavins, and Richard Vietor, eds., Environmental Protection and the Social Responsibility of Firms: Perspectives from Law, Economics, and Business (2005).
- "The Evolution of Employment Discrimination Law in the 1990s: A Preliminary Empirical Evaluation" (with Peter Siegelman), in Laura Beth Nielsen and Robert L. Nelson, eds., Handbook of Employment Discrimination Research (2005).
- "The Impact of Concealed Carry Laws," in Jens Ludwig and Philip Cook, Evaluating Gun Policy: Effects on Crime and Violence (Washington D.C.: Brookings, 2003).

Articles:

- "The Swerve to 'Guns Everywhere:' A Legal and Empirical Analysis," Law and Contemporary Problems, (forthcoming, January 2020).
- "That Assault Weapon Ban? It Really Did Work," *The New York Times*, September 5, 2019, (with Theodora Boulouta), <https://www.nytimes.com/2019/09/04/opinion/assault-weapon-ban.html?action=click&module=Opinion&pgtype=Homepage>.
- "The Impact of Legalized Abortion on Crime over the Last Two Decades," NBER Working Paper No. 25863, May 2019 (with Steven Levitt).
 - Featured on Freakonomics Radio, "Abortion and Crime, Revisited." <https://podcasts.apple.com/us/podcast/freakonomics-radio/id354668519?i=1000444184627>.
- "Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis," *Journal of Empirical Legal Studies*, April 2019 (with Abhay Aneja and Kyle Weber), <https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12219>.
- "RTC Laws Increase Violent Crime: Moody and Marvell Have Missed the Target," *Econ Journal Watch*, Vol. 16, No. 1, 97-113, March 2019 (with Abhay Aneja and Kyle Weber), <https://econjwatch.org/File+download/1103/DonohueAnejaWeberMar2019.pdf?mimetype=pdf>
- "A Panel-based Proxy for Gun Prevalence in the US," NBER working Paper No. 25530, February 2019. <https://www.nber.org/papers/w25530>
- "It's Going to Take More Than Background Checks and AR-15 Bans to Stop Mass Shootings," *Time.com*, November 16, 2018. <http://time.com/5456015/gun-control-background-checks-ar15-mass-shootings/>

- "What's in a denial? Bayesian Analysis shows that Kavanaugh lied about denials under oath and Trump was foolish to believe MBS," November 2, 2018 (with Aaron Edlin).
https://works.bepress.com/john_donohue/176/
- "Brett Kavanaugh won't keep Americans safe," CNN.com, September 5, 2018.
<https://www.cnn.com/2018/09/05/opinions/kavanaugh-wont-keep-america-safe-donohue/>
- "More Gun Carrying, More Violent Crime," *Econ Journal Watch*, Vol. 15, No. 1, 67-82, January 2018.
<https://econjwatch.org/articles/more-gun-carrying-more-violent-crime>
- "Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Controls Analysis" NBER Working Paper w23510, www.nber.org/papers/w23510, January 2018 (with Abhay Aneja, and Kyle Weber).
- "Saving lives by regulating guns: Evidence for policy," *Science* 08 Dec 2017, Vol. 358, Issue 6368, pp. 1259-1261,
<http://science.sciencemag.org/content/358/6368/1259.full> (with Phil Cook).
- "Laws Facilitating Gun Carrying and Homicide," *American Journal of Public Health*, Vol 107, No. 12, 1864-1865, December 2017, <http://ajph.aphapublications.org/doi/10.2105/AJPH.2017.304144>.
- "Comey, Trump, and the Puzzling Pattern of Crime in 2015 and Beyond," 117 *Columbia Law Review* 1297 (2017). <http://columbialawreview.org/content/comey-trump-and-the-puzzling-pattern-of-crime-in-2015-and-beyond/>.
- "Did Jeff Sessions forget wanting to execute pot dealers?" *The Conversation*, January 23, 2017 (with Max Schoening), <https://theconversation.com/did-jeff-sessions-forget-wanting-to-execute-pot-dealers-71694>
 - Reprinted in *Huffington Post*, http://www.huffingtonpost.com/the-conversation-us/did-jeff-sessions-forget_b_14344218.html
 - Reprinted in *Salon*, <http://www.salon.com/2017/01/30/jeff-sessions-forgetting-he-once-wanted-to-execute-pot-dealers/#comments>
- "Jeff Sessions, The Grim Reaper of Alabama," *The New York Times*, January 9, 2017 (with Max Schoening), <http://www.nytimes.com/2017/01/08/opinion/jeff-sessions-the-grim-reaper-of-alabama.html>
- "Testing the Immunity of the Firearm Industry to Tort Litigation," *JAMA Intern Med*. Published online November 14, 2016. <http://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2582991> (with David Studdert and Michelle Mello).

- "Empirical Analysis and the Fate of Capital Punishment," 11 Duke Journal of Constitutional Law and Public Policy 51-106 (2016). Available at: <http://scholarship.law.duke.edu/djclpp/vol11/iss1/3>
- "Firearms on College Campuses: Research Evidence and Policy Implications," Johns Hopkins Bloomberg School of Public Health, (October 15, 2016)(with Daniel Webster et al). http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/_pdfs/GunsOnCampus.pdf
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- "Do Police Reduce Crime? A Reexamination of a Natural Experiment," in Yun-Chien Chang, ed., Empirical Legal Analysis: Assessing the Performance of Legal Institutions, London: Routledge, Chapt. 5, pp. 125-143, 2014 (with Daniel E. Ho & Patrick Leahy)
- "Reflections on the Newtown Shooting One Year Later," Stanford Lawyer, December 5, 2013. <http://stanfordlawyer.law.stanford.edu/2013/12/reflections-on-the-newtown-shooting-one-year-later/>
- Outlier Nation: Homicides, Incarceration, Guns and Gun Culture, TAR 9 (Verona, Italy: 2013).
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- "Substance vs. Sideshows in the More Guns, Less Crime Debate: A Comment on Moody, Lott, and Marvell" (with Abhay Aneja, and Alexandria Zhang) ECON JOURNAL WATCH 10(1) January 2013: 32-39
- "More Guns, Less Crime Thesis," Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law (volume 2:G-Q, at page 585) (2012).
- "Jury Nullification in Modified Comparative Negligence Regimes," 79 The University of Chicago Law Review 945 (2012)(with Eli K. Best).
- "What Can Be Done to Stem Gun Violence?" San Francisco Chronicle, December 21, 2012. <http://www.sfgate.com/opinion/article/What-can-be-done-to-stem-gun-violence-4139575.php#ixzz2G4qIkJJ2>
- "When Will America Wake Up to Gun Violence?" CNN opinion, July 21, 2012. Posted to: <http://www.cnn.com/2012/07/20/opinion/donohue-gun-control/>.
- "Time To Kill The Death Penalty?" The California Progress Report, June 28, 2012.

- "Assessing Post-ADA Employment: Some Econometric Evidence and Policy Considerations." Journal of Empirical Legal Studies Vol. 8: No. 3, September 2011, pp. 477-503 (with Michael Ashley Stein, Christopher L. Griffin, Jr. and Sascha Becker).
- "The Impact of Right-to-Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy," Am Law Econ Rev (Fall 2011) 13 (2): 565-631 (with Abhay Aneja and Alex Zhang). See January 2014 Revision released as an NBER working paper above.
- "Punishment is a Cost, Not a Benefit," Review of Mark A. R. Kleiman's "When Brute Force Fails: How to Have Less Crime and Less Punishment," XLVII Journal of Economic Literature (March 2010), 168-172.
- "The Politics of Judicial Opposition: Comment," Journal of Institutional and Theoretical Economics, 166(1), 108—114 (2010).
- "Introduction to the Death Penalty Symposium," 11 American Law and Economics Review. v (Fall 2009) (with Steve Shavell).
- "Estimating the Impact of the Death Penalty on Murder," 11 American Law and Economics Review 249 (Fall 2009) (with Justin Wolfers).
- "The Impact of the Death Penalty on Murder," Criminology & Public Policy (November 2009, Volume 8, Issue 4) at pp. 795-801.
- "The Impact of Legalized Abortion on Teen Childbearing," 11 American Law and Economics Review 24 (2009) (with Jeff Grogger and Steven Levitt).
- "More Guns, Less Crime Fails Again: The Latest Evidence from 1977-2006," 6 Econ Journal Watch 218-233 (May 2009)(with Ian Ayres).
- "Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell," 6 Econ Journal Watch 35-59 (January 2009)(with Ian Ayres).
- "Measurement Error, Legalized Abortion, and the Decline in Crime: A Response to Foote and Goetz," The Quarterly Journal of Economics (2008) 123 (1): 425-440 (with Steven Levitt).
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- "Murder in Decline in the 1990s: Why the U.S. and N.Y.C. Were Not That Special," Punishment and Society 10: 333 (2008) at <http://pun.sagepub.com>
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- "The Employment Consequences of Wrongful-Discharge Laws: Large, Small, or None at All?" American Economic Review: Papers and Proceedings May, 2004 (with David Autor and Stewart Schwab).

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- "Posner's Third Symphony: Thinking about the Unthinkable," 39 Stanford Law Review 791 (1987)(with Ian Ayres).
- "Determinants of Job Turnover of Young Men and Women in the U.S.--A Hazard Rate Analysis," in Schultz, T.P., ed., Research in Population Economics, vol.6, Greenwich, Conn.: JAI Press (1987).
- "A Comparison of Male-Female Hazard Rates of Young Workers, 1968-1971," Working Paper #48, Center for Studies in Law, Economics and Public Policy; Yale Law School (1986).
- "Hazard Rates of Young Male and Female Workers--Recent Developments," Working Paper #51, Center for Studies in Law, Economics and Public Policy; Yale Law School (1986).

- "Is Title VII Efficient?" 134 U. Pa. L. Rev. 1411 (1986).
- Reprinted in Paul Burstein, ed., Equal Employment Opportunity, Aldine De Gruyter, New York (1994).
- "Section I Cases," Sherman's Summations, Vol.3, No.2, Sherman Act Committee of the A.B.A. Antitrust Section, Fall, 1982, at 49.
- "An Evaluation of the Constitutionality of S. 114, The Proposed Federal Death Penalty Statute," Hearings before the U.S. Senate Judiciary Committee, April 27, 1981, at 151.
- "Godfrey v. Georgia: Creative Federalism, the Eighth Amendment, and the Evolving Law of Death," 30 Catholic University Law Review 13 (1980).
- "Criminal Code Revision--Contempt of Court and Related Offenses," Hearings before the Subcommittee on Criminal Justice of the House Judiciary Committee, July 18, 1979, at 1087.

Blog Posts:

- "The Assault Weapon Ban Saved Lives," (with Theodora Boulouta), *Stanford Law School Legal Aggregate Blog*, October 15, 2019, <https://stanford.io/2MWNsrV>
- "Stanford Law's John Donohue on Mass Shootings and Gun Regulation in the U.S.," *Stanford Law School Legal Aggregate Blog*, August 6, 2019, <https://law.stanford.edu/2019/08/06/stanford-laws-john-donohue-on-mass-shootings-and-gun-regulation-in-the-u-s/>
- "Stanford Law Faculty Remember Justice Stevens." *Stanford Law School Legal Aggregate Blog*, July 18, 2019, <https://law.stanford.edu/2019/07/18/stanford-law-faculty-remember-justice-stevens/>
- "Arming Teachers Is Not a Good Option," *Scientific American*, February 28, 2018, <https://blogs.scientificamerican.com/observations/arming-teachers-is-not-a-good-option/>
- "Another Mass Shooting: An Update on U.S. Gun Laws," *Stanford Law School Legal Aggregate Blog*, February 18, 2018, <https://law.stanford.edu/2018/02/18/another-mass-shooting-ga-us-gun-laws/>
- "Orlando to Las Vegas: Guns, Law, and Mass Shootings in the U.S.," *Stanford Law School Legal Aggregate Blog*, October 3, 2017, <https://law.stanford.edu/2017/10/03/orlando-to-las-vegas-guns-and-law/>
- "Moore v. Texas and the Pathologies that Still Mar Capital Punishment in the U.S.," *Stanford Law School Legal Aggregate Blog*, March 29, 2017, <https://law.stanford.edu/2017/03/29/moore-v-texas-and-the-pathologies-that-mar-capital-punishment-in-the-u-s/>
- "Trump and Gun Policy," *Stanford Law School Legal Aggregate Blog*, November 12, 2016, <http://stanford.io/2eoWnna>
- "Facts Do Not Support Claim That Guns Make Us Safer" *Stanford Law School Legal Aggregate Blog*, October 12, 2015, <https://law.stanford.edu/2015/10/12/professor-john-donohue-facts-do-not-support-claim-that-guns-make-us-safer/>
- "When will America wake up to gun violence?" *CNN.com*, July 20, 2012, <http://www.cnn.com/2012/07/20/opinion/donohue-gun-control/index.html>

- "It Takes Laws to Control the Bad Guys," The New York Times -- Room For Debate: <http://www.nytimes.com/roomfordebate/2011/01/11/more-guns-less-crime> (January 11, 2011).
- "Have 'Woman-Protective' Studies Resolved the Abortion Debate? Don't Bet on It," <http://balkin.blogspot.com/2008/09/have-woman-protective-studies-resolved.html> (September 2008).
- "Dodging the Death Penalty Bullet On Child Rape," <http://balkin.blogspot.com/2008/07/dodging-death-penalty-bullet-on-child.html> (July 2008).
- "Why I'd Stick With Yale Clerks-- Some Econometric Ruminations," <http://balkin.blogspot.com/2008/04/why-id-stick-with-yale-clerks-some.html> (April 2008).

WORKSHOPS AND ADDRESSES

- "Gun Safety Under Attack," Grand Rounds, **Stanford University Department of Psychiatry and Behavioral Sciences**, February 20, 2020.
- "The Swerve: A Legal and Empirical Evaluation of the Move to 'Guns Everywhere,'" Law and Economic Studies Workshop, **Columbia Law School**, September 23, 2019; Conference on Gun Rights and Regulations Outside the Home, **Duke Law School**, September 27, 2019; Law and Economics Workshop, **University of California, Berkeley, Law School**, February 6, 2020.
- "Evidence to Guide Gun-related Public Policy," Conference on Gun Violence Epidemic, **Stanford Medical School**, September 16, 2019; Lecturer, Physicians and Social Responsibility Course, **Stanford Medical School**, October 7, 2019; Lecturer, Data Science Course, **Department of Statistics, Stanford University**, November 1, 2019.
- "The Legal and Political Battle over Gun Policy in America," **Hamilton College**, June 7, 2019.
- "Impact of Right to Carry Laws on Violent Crime," Public Policy colloquium, **Stanford Economics Department**, January 22, 2018; SPILS Methods Workshop, **Stanford Law School**, January 25, 2018; Quantlaw, **University of Arizona Law School**, March 2, 2018; Stanford/Berkeley Causal Inference Conference, **Stanford Graduate School of Business**, April 23, 2019; **Baldy Center/Law School Distinguished Speaker Series**, University at Buffalo School of Law, May 3, 2019; Conference on "Synthetic Controls and Related Methods," **Institute for Data, Systems, and Society, MIT**, May 21, 2019.
- "The Impact of Legalized Abortion on Crime over the Last Two Decades," American Law and Economics Association Meetings, **NYU School of Law**, May 18, 2019.
- "Guns, Abortion, and the Death Penalty: Informing Policy Through Empirical Research," Politics and Public Policy Lecture Series, **Stanford University**, April 1, 2019.
- "Dangers of Guns Carried Outside the Home for Protection," **GVPedia Conference**, Denver, Colorado, April 6, 2019.
- "Understanding California's Red Flag Law: How to Remove Guns from People Who Are a Threat to Themselves or Others," **Stanford Law School**, February 12, 2019.

- "Guns and Crime: Current Empirical and Legal Debates," **Fellowship Forum**, January 22, 2019.
- "Gun Policy in America at a Critical Juncture," SAFE, **Stanford Medical School**, September 17, 2018.
- "Empirical Evaluation of Law and Policy: The Battle for Truth," **Woodside Rotary Club**, September 12, 2018.
- "Discussing America's Second Amendment," **San Jose Museum of Quilts & Textiles**, July 15, 2018.
- "The Legal Battle to End the Death Penalty in Connecticut," **Law School of the University of Reggio Calabria, Italy**, June 15, 2018.
- Panelist, "Newtown and Gun Violence in the US, Humanity is Indivisible Series, **Stanford University**, May 31, 2018.
- "Gun Policy In California and the US," Human Rights Seminar; **Stanford Medical School**, May 29, 2018.
- "Gun Policy in the Wake of Parkland," Sigma Alpha Epsilon Leadership Speaker Series, **Stanford Law School**, March 13, 2018; Stanford in Government event, Haas Center, **Stanford University**, April 20, 2018.
- Panelist, Town Hall Meeting on Gun Violence with Congresswoman Jackie Speier, **Burlingame High School**, April 14, 2018.
- Moderator, In Studio Conversation with Berkeley Law School Dean Erwin Chemerinsky: "Defining the Limits of Free Speech," **Palo Alto League of Women's Voters**, March 27, 2018. <https://youtu.be/cqHEIAVoTLY>
- "More than Thoughts & Prayers," **American Constitution Society** and the **Federalist Society, U.C. Hastings School of Law**, March 14, 2018.
- Panelist, "Addressing Gun Violence," **American Constitution Society**, Stanford Law School, March 8, 2018.
- Panelist, "Public Carry: Defending Against Efforts to Expand Carry Laws," **National Gun Violence Prevention Meeting**, Washington, D.C., October 18, 2017.
- "Keynote Presentation: Right-to-Carry Laws and Violent Crime," Second Amendment Litigation & Jurisprudence Conference, **The Law Center to Prevent Gun Violence**, October 16, 2017.
- "The Latest Evidence on Abortion Legalization and Crime," Conference on Empirical Legal Studies, **Cornell University**, October 13, 2017.
- "Comey, Trump, and the Puzzling Pattern of Crime in 2015 and Beyond," **University of Texas School of Law and Economics Seminar**, April 24, 2017, Faculty Workshop, **UC Davis School of Law**, April 10, 2017; Law and Social Science Seminar, **Texas A&M University School of Law**, March 6, 2017; Quantlaw, **University of Arizona Law School**, February 17, 2017.

- Debate with Kent Scheidegger on Capital Punishment, Philosophy of Punishment Seminar, **JFK University School of Law**, March 18, 2017.
- "The Evidence on Guns and Gun Laws," **Federal Bar Council Program on Guns and Gun Laws** -- Rancho Mirage, California, February 23, 2017.
- "Guns, Crime and Race in America," Stanford's Center for Population Health Sciences, **Stanford Medical School**, October 17, 2016.
- "Evaluating the Death Penalty," Forum on California Propositions 62 and 66, **Stanford Law School**, September 14, 2016.
- "Empirical Analysis and the Fate of Capital Punishment," Colloquium, Presley Center for Crime and Justice Studies; **University of California, Riverside**, October 24, 2016.
- "Gun Violence and Mental Illness," Department of Psychiatry, **Stanford University**, August 25, 2016.
- "The Battle Over Gun Policy In America," Physicians and Social Responsibility" seminar; **Stanford Medical School**, October 3, 2016; **Bioethics Committee of the San Mateo County Medical Association**, April 27, 2016; **The League of Women Voters of Palo Alto**, April 19, 2016; Human Rights and Health Seminar, **Stanford University**, April 12, 2016; Bechtel International Center, **Stanford University**, February 23, 2016; Stanford in Government Seminar, Haas Center, **Stanford University**, February 2, 2016.
- American Economic Association Continuing Education Course "The Economics of Crime" (with Jens Ludwig), **AEA Annual Meeting**, San Francisco, January 5-7, 2016.
- "Race and Arbitrariness in the Connecticut Death Penalty," **University of Connecticut School of Law**, Nov. 20, 2015.
- "*Connecticut v. Santiago* and the Demise of the Connecticut Death Penalty," Faculty Workshop, **Stanford Law School**, August 19, 2015.
- "Do Handguns Make Us Safer? A State-Level Synthetic Controls Analysis of Right-to-Carry Laws," Second Amendment Conference, **Covington and Burling, New York**, May 14, 2015; **NBER Summer Institute**, Cambridge, MA, July 23, 2015; Faculty Workshop, **Stanford Law School**, November 11, 2015.
- "U.S. Criminal Justice Under Siege : Will Becker or Beccaria Prevail?" Faculty Seminar, **Bocconi University School of Law, Milan, Italy**, June 18, 2015.
- "Can You Believe Econometric Evaluations of Law, Policy, and Medicine?" **Stanford Law School**, Legal Theory Workshop, March 1, 2007; Faculty Workshop, **Tel Aviv University School of Law**, May 14, 2007; Faculty Workshop, **University of Haifa Law School**, May 16, 2007; Law and Economics Workshop, **Georgetown Law School**, September 19, 2007; Law and Economics Workshop, **St. Gallen Law School**, Switzerland, November 29, 2007; and Yale Law School, February 25, 2008; Law and Economics Workshop, **Swiss Institute of Technology**, Zurich, Switzerland, May 21, 2008; Faculty Workshop, **University of Virginia Law School**, October 24, 2008; Plenary Session, Latin American and Caribbean Law and Economics Association, **Universitat Pompeu Fabra (Barcelona)**, June 15, 2009; **Google, Milan**, Italy, June 8, 2015.

- Commentator: ““Throw Away the Jail or Throw Away The Key? The Effect of Punishment on Recidivism and Social Cost,”” by Miguel F. P. de Figueiredo, American Law and Economics Association Meetings, **Columbia Law School**, May 15, 2015.
- “Broken Windows, Stop and Frisk, and Ferguson,” 2015 Justice Collaboratory Conference: Policing Post-Ferguson, **Yale Law School**, April 17, 2015.
- “Assessing the Development and Future of Empirical Legal Studies,” **Stanford Law School** course on Modern American Legal Thought, February 25, 2015.
- Commentator: “Payday Lending Restrictions and Crimes in the Neighborhood,” by Yilan Xu, 9th Annual Conference on Empirical Legal Studies, **Boalt Hall**, Berkeley, CA, November 7, 2014.
- “An Empirical Evaluation of the Connecticut Death Penalty Since 1973: Are There Unconstitutional Race, Gender and Geographic Disparities?” Faculty Workshop, **Economics Department, Rice University**, Houston, TX, Feb. 18, 2014; Law and Economics Workshop, **University of Virginia Law School**, September 11, 2014; Faculty Colloquium, **University of San Diego School of Law**, October 3, 2014.
- “What’s Happening to the Death Penalty? A Look at the Battle in Connecticut,” **Hamilton College**, Clinton, New York, June 6, 2014.
- Panel Member, Research Methods Workshop, Conference for Junior Researchers on Law and Society, **Stanford Law School**, May 15, 2014.
- “Logit v. OLS: A Matter of Life and Death,” Annual Meeting of the American Law and Economics Association, **University of Chicago**, May 9, 2014.
- “Guns: Law, Policy, Econometrics,” Second Amendment Litigation and Jurisprudence Conference, **Jenner & Block**, Chicago, May 8, 2014.
- “The Impact of Antidiscrimination Law: The View 50 Years after the Civil Rights Act of 1964,” **Renaissance Weekend**, Liguna Niguel, CA, Feb. 15, 2014.
- “Concealed Carry and Stand Your Ground Law,” **Renaissance Weekend**, Liguna Niguel, CA, Feb. 15, 2014.
- “Reducing Gun Violence,” Forum on Gun Violence Reduction, Mountainview City Hall, Mountainview, CA, Feb. 8, 2014.
- “Gun Policy Debate,” **C-SPAN**. National Cable Satellite Corporation, Jan. 16, 2014. <<http://www.c-span.org/video/?317256-1/GunPoli>>.
- “Trial and Decision in the Connecticut Death Penalty Litigation,” Faculty Workshop, **Stanford Law School**, November 20, 2013.
- “Rethinking America’s Illegal Drug Policy,” Law and Economics Workshop, **Harvard Law School**, April 20, 2010; NBER Conference, “Economical Crime Control,” **Boalt Hall**, Berkeley, CA, January 16, 2010; **NBER Summer Institute** Pre-Conference “Economical Crime Control,” July 23, 2009; **Whitney Center** Lecture Series, Hamden,

CT, October 5, 2009; Law and Economics Workshop, **University of Chicago Law School**, October 13, 2009; Seminar for Spanish Law Professors, **Harvard Law School**, October 23, 2009; The Criminal Law Society, **Stanford Law School**, March 31, 2011, **University of Denver Sturm College of Law**, April 21, 2011; Law and Economics Workshop, **Boalt Hall**, Berkeley, CA, October 17, 2011; Shaking the Foundations Conference, **Stanford Law School**, November 2, 2013.

- "The Challenge to the Connecticut Death Penalty," **Yale Law School**, Death Penalty Clinic, November 5, 2007; Graduate Student Seminar, November 11, 2009; Stanford Program in International Legal Studies Seminar, **Stanford Law School**, Nov. 11, 2010; Faculty Workshop, **Stanford Law School**, June 8, 2011; Faculty workshop, **Duke Law School**, April 13, 2012; Program on Public Policy, **Stanford University**, May 2, 2012; Annual Meeting of the American Law and Economics Association, **Vanderbilt Law School**, Nashville, TN, May 18, 2013; Faculty Workshop, **University of Arizona Law School**, October 17, 2013; 8th Annual Conference on Empirical Legal Studies, **University of Pennsylvania Law School**, October 26, 2013.
- Commentator: "How to Lie with Rape Statistics" by Corey Rayburn Yung, 8th Annual Conference on Empirical Legal Studies, **University of Pennsylvania Law School**, October 2013.
- "An Empirical Look at Gun Violence in the U.S." **University of Arizona Law School**, October 17, 2013
- Discussant, "Sex Offender Registration and Plea Bargaining," **NBER Labor Summer Institute**, Cambridge, MA, July 25, 2013.
- "What Works in the War Against Crime?" **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- Seminar Presentation, "Statistics and the Streets – Curbing Crime, Realities of the Death Penalty, and Successes in Public Safety," **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- Flashes of Genius (Glimpses of Extra-ordinarily Novel Thinking) -- "Stemming Gun Violence," **Renaissance Weekend**, Jackson Hole, Wyoming, July 5, 2013.
- "Can Laws Reduce Crime?" Safe Oakland Speakers Series, Holy Names University, Oakland, CA, May 1, 2013, <http://www.ustream.tv/channel/safe-oakland-speaker-series>
- Presentation on "The Death Penalty in America" on a panel on "human rights and criminal justice systems in the world," Science for Peace conference at Bocconi University in Milan, Italy, November 15, 2012. <http://www.fondazioneveronesi.it/scienceforpeace2012/>
- Seminar Presentation, "America's Criminal Justice System," **Renaissance Weekend**, Santa Monica, CA., Feb. 19, 2012.
- "Statistical Inference, Regression Analysis and Common Mistakes in Empirical Research," SPILLS Fellow's Workshop, **Stanford Law School**, February 2, 2012.
- "New Evidence in the 'More Guns, Less Crime' Debate: A Synthetic Controls Approach," Conference on Empirical Legal Studies, **Northwestern Law School**, November 4, 2011.
- "Drug Legalization and its Alternatives," *Lessons from the Economics of Crime: What Works in Reducing Offending?* **CESifo Venice Summer Institute Workshop**, July 22, 2011.

- "Incapacitating Addictions: Drug Policy and American Criminal Justice," in Rethinking the War on Drugs through the US-Mexico Prism," **Yale Center for the Study of Globalization**, May 12, 2011.
- Plenary Session: Flashes of Genius (Glimpses of Extra-ordinarily Novel Thinking) -- "Has Legalized Abortion Reduced Crime?" **Renaissance Weekend**, Liguna Niguel, CA., Feb. 18, 2011.
- "An Evidence-Based Look at the More Guns, Less Crime Theory (after Tucson)" The American Constitution Society for Law and Policy (ACS), **Stanford Law School**, January 25, 2011; **Renaissance Weekend**, Liguna Niguel, CA., Feb. 19, 2011; "Faculty Forum" at the External Relations Office, **Stanford Law School**, April 5, 2011.
- "Empirical Evaluation of Law: The Dream and the Nightmare," SPILS Fellows Lecture, **Stanford Law School**, January 15, 2015; Legal Studies Workshop, **Stanford Law School**, Feb. 7, 2011; **Renaissance Weekend**, Liguna Niguel, CA., Feb. 20, 2011; **University of Denver Sturm College of Law**, April 22, 2011; Presidential Address, Annual Meeting of the American Law and Economics Association, **Columbia University**, May 20, 2011.
- Death Sentencing in Connecticut," **American Society of Criminology Annual Meeting**, San Francisco, Nov. 17, 2010.
- "The Impact of Right to Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy," Conference on Empirical Legal Studies, **Yale Law School**, Nov. 6, 2010.
- Comment on Bushway and Gelbach, "Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model," Conference on Empirical Legal Studies, **Yale Law School**, Nov. 6, 2010.
- Commentator, "A Test of Racial Bias in Capital Sentencing," **NBER Political Economy Program Meeting**, April 23, 2010.
- "The (Lack of a) Deterrent Effect of Capital Punishment," Faculty Workshop, **University of Chicago Economics Department**, October 21, 2009.
- Keynote Address, "The Evolution of Econometric Evaluation of Crime and Deterrence," 1st Paris& Bonn Workshop on Law and Economics: The Empirics of Crime and Deterrence, **University of Paris Ouest Nanterre**, September 24, 2009.
- Comment on Cook, Ludwig, and Samaha, "Gun Control after *Heller*: Litigating Against Regulation," NBER Regulation and Litigation Conference, **The Boulders**, Carefree, Arizona, September 11, 2009.
- "Impact of the Death Penalty on Murder in the US," Faculty Workshop, Law School, **Universitat Pompeu Fabra (Barcelona)**, June 18, 2009.
- Comment on Joanna Shepherd's "The Politics of Judicial Opposition," Journal of Institutional and Theoretical Economics Conference, **Kloster Eberbach, Germany**, June 12, 2009.
- "The Great American Crime Drop of the '90s: Some Thoughts on Abortion Legalization, Guns, Prisons, and the Death Penalty," **Hamilton College**, Clinton, NY, June 5, 2009.
- "The Impact of the ADA on the Employment and Earnings of the Disabled," **American Law and Economics Association Meetings**, University of San Diego, May 15, 2009.

- "Crime and Punishment in the United States," **Eastern State Penitentiary, Yale Alumni Event**, Philadelphia, PA, April 26, 2009.
- "Measuring Culpability in Death Penalty Cases," Conference on Applications of Economic Analysis in Law, **Fuqua School of Business, Duke University**, April 18, 2009.
- "Autopsy of a Financial Crisis," Workshop on New International Rules and Bodies for Regulating Financial Markets, **State University of Milan**, March 23, 2009.
- "Yet Another Refutation of the More Guns, Less Crime Hypothesis – With Some Help From Moody and Marvell, Law and Economics Workshop, **NYU Law School**, March 10, 2009.
- Intelligence-Squared Debate: "Guns Reduce Crime," **Rockefeller University**, New York, October 28, 2008.
- "The D.C. Handgun Controls: Did the Supreme Court's Decision Make the City Safer?" Debate, **The Contemporary Club of Albemarle**, Charlottesville, VA, October 23, 2008.
- "Evaluating the Empirical Claims of the Woman-Protective Anti-Abortion Movement," Panel on The Facts of the Matter: Science, Public Health, and Counseling, Yale Conference on the Future of Sexual and Reproductive Rights, **Yale Law School**, October 11, 2008.
- "Empirical Evaluation of Gun Policy," **Harvard Law School**, October 9, 2008.
- "Assessing the Relative Benefits of Incarceration: The Overall Change Over the Previous Decades and the Benefits on the Margin," **Russell Sage Foundation**, New York, May 3, 2007; Law and Economics Workshop, **Tel Aviv University School of Law**, May 28, 2008.
- Death Penalty Debate with Orin Kerr, Bloggingheads, April 11, 2008.
- "Evaluating Connecticut's Death Penalty Regime," Faculty Public Interest Conversation, **Yale Law School**, April 9, 2008.
- "The Death Penalty in Connecticut and the United States," **The Whitney Center**, Hamden, CT, November 5, 2007; Seminar on Advanced Criminal Law: Criminal Sentencing and the Death Penalty, **Fordham Law School**, April 8, 2008; Law and Economics Workshop, **Swiss Institute of Technology**, Zurich, Switzerland, May 20, 2008.
- Radio Interview, "The Death of Capital Punishment?" Morning Edition: Where We Live. WNPR. Connecticut, March 10, 2008.
- Comment on Thomas Dee's "Born to Be Mild: Motorcycle Helmets and Traffic Safety," **American Economics Association Meetings**, New Orleans, Louisiana, January 4, 2008.
- "The Empirical Revolution in Law and Policy: Jubilation and Tribulation," **Keynote Address, Conference on Empirical Legal Studies, NYU Law School**, November 9, 2007.
- "The Optimal Rate of Incarceration," **Harvard Law School**, October 26, 2007.
- "Empirical Evaluation of Law: The Impact on U.S Crime Rates of Incarceration, the Death Penalty, Guns, and Abortion," Law and Economics Workshop, **St. Gallen Law School, Switzerland**, June 25, 2007.

- Comment on Eric Baumer's "A Comprehensive Assessment of the Contemporary Crime Trends Puzzle," Committee on Law and Justice Workshop on Understanding Crime Trends, **National Academy of Sciences**, Washington, D.C., April 25, 2007.
- Comment on Bernard Harcourt, Third Annual Criminal Justice Roundtable Conference, **Yale Law School**, "Rethinking the Incarceration Revolution Part II: State Level Analysis," April 14, 2006.
- "Corporate Governance in America: The Disney Case," **Catholic University Law School**, Milan, Italy, March 19, 2007.
- "The U.S Tort System," (Latin American) Linkages Program, **Yale Law School**, February 13, 2007.
- Panel Member, "Guns and Violence in the U.S.," **Yale University, International Center**, January 24, 2007.
- "Economic Models of Crime and Punishment," Punishment: The U.S. Record: A Social Research Conference at **The New School**, New York City, Nov. 30, 2006
- Comment on Baldus et al, "Equal Justice and the Death Penalty: The Experience fo the United States Armed Forces, Conference on Empirical Legal Studies, **University of Texas Law, School**, Austin, Texas, October 27, 2006.
- "Empirical Evaluation of Law: The Promise and the Peril," **Harvard Law School**, October 26, 2006.
- "Estimating the Impact of the Death Penalty on Murder," Law and Economics Workshop, **Harvard Law School**, September 12, 2006; Conference on Empirical Legal Studies, **University of Texas Law School**, October 28, 2006; Joint Workshop, Maryland Population Research Center and School of Public Policy, **University of Maryland**, March 9, 2007.
- "Why Are Auto Fatalities Dropping so Sharply?" **Faculty Workshop, Wharton**, Philadelphia, PA, April 19, 2006.
- "The Law of Racial Profiling," Law and Economic Perspectives on Profiling Workshop, **Northwestern University Department of Economics**, April 7, 2006.
- "Landmines and Goldmines: Why It's Hard to Find Truth and Easy To Peddle Falsehood in Empirical Evaluation of Law and Policy," **Rosenthal Lectures, Northwestern University School of Law**, April 4-6, 2006.
- "The Impact of Legalized Abortion on Crime," **American Enterprise Institute**, March 28, 2006.
- "The Impact of Damage Caps on Malpractice Claims: Randomization Inference with Difference-in-Differences," **Conference on Medical Malpractice, The Rand Corporation**, March 11, 2006.
- "Powerful Evidence the Death Penalty Deters?" **Leighton Homer Surbeck Chair Lecture, Yale Law School**, March 7, 2006.
- "Uses and Abuses of Empirical Evidence in the Death Penalty Debate," Faculty Workshop, **University of Connecticut Law School**, October 18, 2005; Faculty Workshop, **UCLA Law School**, February 3, 2006; Law and Economics Workshop, **Stanford Law School**, February 16, 2006; ; Law Faculty, **University of Cambridge, Cambridge, England**, February 28, 2006; **University of Illinois College of Law**, Law and Economics Workshop, March 2, 2006; Faculty Workshop, **Florida State University Law School**, March 30, 2006; **ALEA**, Berkeley, CA May 6, 2006; **University of Chicago Law School**, Law and Economics Workshop, May 9, 2006.
- "Is Gun Control Illiberal?" Federalist Society Debate with Dan Kahan at Yale Law School, January 31, 2006.

- "Witness to Deception: An Insider's Look at the Disney Trial," **2005-2006 Distinguished Lecture, Boston University School of Law**, November 10, 2005; Center for the Study of Corporate Law, **Yale Law School**, November 3, 2005; **Law Offices of Herbert Smith, London, England**, February 23, 2006; Law Faculty, **University of Cambridge, Cambridge, England**, February 27, 2006.
- "Understanding the Surprising Fall in Crime in the 1990s," **Rotary Club**, Orange, CT, August 5, 2005; Faculty Workshop, **Yale School of Management**, September 21, 2005.
- Panel Member, "The Board's Role in Corporate Strategy," The Yale Global Governance Forum, **Yale School of Management**, September 8, 2005.
- "Crime and Abortion," **Museo de la Ciudad de Mexico**, Mexico City, October 20, 2003.
- "Allocating Resources towards Social Problems and Away From Incarceration as a Means of Reducing Crime," **MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice**, San Francisco, CA, February 28, 2003.
- "Shooting Down the More Guns, Less Crime Hypothesis," **Stanford Law School**, Law and Economics Seminar, January 28, 2003; Faculty Workshop, Center for the Study of Law and Society, **Boalt Hall**, University of California, Berkeley, Feb. 24, 2003; Development Workshop, **Stanford Law School**, April 25, 2003; Faculty Workshop, **Stanford Law School**, July 2, 2003; Law and Public Affairs Program Workshop, **Princeton University**, September 29, 2003; Stanford Alumni Weekend, **Stanford University**, October 17, 2003; Faculty Workshop, **CIDE**, Mexico City, October 20, 2003.
- "The Impact of Legalized Abortion on Teen Childbearing," **NBER Labor Summer Institute**, Cambridge, MA, July 30, 2002.
- "Do Concealed Handgun Laws Reduce Crime?" Faculty Workshop, **Stanford Law School**, October 4, 2000; First-Year Orientation, **Stanford Law School**, September 5, 2001; Faculty Workshop, **Harvard Law School**, April 26, 2002; Faculty Workshop, **Columbia Law School**, April 29, 2002.
- "The Evolution of Employment Discrimination Law in the 1990s: An Empirical Investigation," Fellows Workshop, American Bar Foundation, February 11, 2002.
- "The Role of Discounting in Evaluating Social Programs Impacting on Future Generations: Comment on Arrow and Revesz," Colloquium on Distributive Justice, **Stanford Law School**, Oct. 18, 2001.
- "The Impact of Wrongful Discharge Laws," **NBER Labor Summer Institute**, Cambridge, MA, July 30, 2001; Labor and Employment Seminar, **NYU Law School**, October 16, 2001; Faculty Workshop, **Stanford Law School**, September 18, 2002; **Yale Law School**, January, 2004.
- "Racial Profiling: Defining the Problem, Understanding the Cause, Finding the Solution," **American Society of Criminology Conference**, San Francisco, CA, November 15, 2000.
- "Institutional Architecture for Building Private Markets," Conference on "Latin America and The New Economy" at **Diego Portales University** in Santiago, Chile, October 26, 2000.
- "The History and Current Status of Employment Discrimination Law in the United States," Unicapital School of Law, (Centro Universitario Capital), Sao Paulo, Brazil, March 10, 2000.

- "Corporate Governance in Developing Countries: Opportunities and Dangers," Conference on Neoliberal Policies for Development: Analysis and Criticism," University of Sao Paulo Law School, March 13, 2000
- "Legalized Abortion and Crime," Law and Economics Workshop, **University of Pennsylvania Law School**, September 21, 1999; Faculty Workshop, **Yale Law School**, September 27, 1999; **John Jay College of Criminal Justice**, October 7, 1999; Faculty Workshop, **Quinnipiac Law School**, October 13, 1999; Faculty Workshop, **University of Connecticut Law School**, October 19, 1999; **University of Virginia Law School**, October 25, 1999; Faculty Workshop, **Baruch College**, November 9, 1999; MacArthur Foundation Social Interactions and Economic Inequality Network Meeting, **Brookings Institution**, December 4, 1999; Faculty Workshop, **NYU Law School**, January 21, 2000; Faculty Workshop, **University of San Diego Law School**, February 18, 2000; Public Economics Workshop, Department of Economics, **Stanford University**, April 28, 2000; Law and Economics Workshop, **University of California at Berkeley Law School**, September 18, 2000; Faculty Workshop, **Cornell Law School**, September 26, 2000; OB-GYN Grand Rounds, **Stanford Medical School**, October 2, 2000; **Center for Advanced Studies in the Behavioral Sciences**, October 11, 2000; Faculty Workshop, **Graduate School of Business**, February 5, 2002.
- Panel member, Session on Executive Compensation, Director's College, **Stanford Law School**, March 23, 1999.
- "Exploring the Link Between Legalization of Abortion in the 1970s and Falling Crime in the 1990s," Law and Economics Workshop, **Harvard Law School**, March 16, 1999; Law and Economics Workshop, **University of Chicago Law School**, April 27, 1999; Faculty Workshop, **Stanford Law School**, June 30, 1999.
- "Is the Increasing Reliance on Incarceration a Cost-Effective Strategy of Fighting Crime?" Faculty Workshop, **University of Wisconsin School of Social Science**, February 19, 1999.
- "What Do We Know About Options Compensation?" Institutional Investors Forum, **Stanford Law School**, May 29, 1998.
- Commentator on Orlando Patterson's presentation on "The Ordeal of Integration," **Stanford Economics Department**, May 20, 1998.
- "Understanding The Time Path of Crime," Presentation at Conference on Why is Crime Decreasing? **Northwestern University School of Law**, March 28, 1998; Faculty Workshop, **Stanford Law School**, September 16, 1998; Faculty Workshop, **University of Michigan Law School**, February 18, 1999.
- Commentator, Conference on Public and Private Penalties, the **University of Chicago Law School**, Dec. 13-14, 1997.
- "Some Thoughts on Affirmative Action," Presentation at a conference on Rethinking Equality in the Global Society, **Washington University School of Law**, November 10, 1997.
- Commentator on Chris Jencks' Presentation on Welfare Policy, **Stanford Economics Department**, October 8, 1997.
- "The Impact of Race on Policing, Arrest Patterns, and Crime," Faculty Workshop, **Stanford Law School**, September 10, 1997; Law and Economics Workshop, **University of Southern California Law School**, October 23, 1997; Law and Economics Workshop, **Columbia University Law School**, November 24, 1997; Law and Economics Workshop, Haas School of Business, **University of California at Berkeley**, February 19, 1998; Annual Meeting of the American Law and Economics Association, **University of California at Berkeley**, May 8, 1998; Conference on the Economics of Law Enforcement, **Harvard Law School**, October 17, 1998.

- "Crime in America: Understanding Trends, Evaluating Policy," **Stanford Sierra Camp**, August 1997.
- "Executive Compensation: What Do We Know?" TIAA-CREF Committees on Corporate Governance and Social Responsibility, Center for Economic Policy Research, **Stanford University**, June 27, 1997; NASDAQ Director's Day, **Stanford University**, June 30, 1997.
- Panel Chair, Criminal Law (Theory), Criminal Law (Empirical), and Labor/Discrimination/Family Law, American Law and Economics Association, **University of Toronto Law School**, May 9-10, 1997.
- Commentator, "Diversity in Law School Hiring," **Stanford Law School**, February 25, 1997.
- Keynote Speaker, "The Optimal Rate of Crime," 11th Annual Conference, **The Oklahoma Academy for State Goals**, Tulsa, Oklahoma, May 7, 1996.
- Panel member, Session on Executive Compensation, Director's College, **Stanford Law School**, March 28-29, 1996.
- "The Power of Law: Can Law Make a Difference in Improving the Position of Women and Minorities in the Labor Market?" The Fellows of the **American Bar Foundation**, Baltimore, Maryland, February 3, 1996.
- "Public Action, Private Choice and Philanthropy: Understanding the Sources of Improvement in Black Schooling Quality in Georgia, 1911-1960," **Stanford Faculty Workshop**, January 24, 1996; Faculty Workshop, **University of Virginia Law School**, January 22, 1997; **National Bureau of Economic Research**, Cambridge, Massachusetts, Labor Studies Conference, April 3, 1998.
- Commentator, "The Effect of Increased Incarceration on Crime," Meetings of the **American Economics Association**, San Francisco, January 6, 1996.
- Commentator, Symposium on Labor Law, **University of Texas Law School**, November 10-11, 1995.
- Panel Member, Symposium on Criminal Justice, **Stanford Law School**, October 6-7, 1995.
- Commentator, "The Litigious Plaintiff Hypothesis," Industrial and Labor Relations Conference, **Cornell University**, May 19, 1995.
- Commentator on Keith Hylton's, "Fee Shifting and Predictability of Law," Faculty Workshop, **Northwestern University School of Law**, February 27, 1995.
- "The Selection of Employment Discrimination Disputes for Litigation: Using Business Cycle Effects to Test the Priest/Klein Hypothesis," **Stanford University**, Law and Economics Seminars, October 31, 1994.
- "Is the United States at the Optimal Rate of Crime?" Faculty Workshop, **Indiana University School of Law**, Indianapolis, November 18, 1993; Faculty Workshop, **Northwestern University School of Law**, April 18, 1994; Law and Economics Workshop, **Stanford Law School**, April 28, 1994; Meetings of the American Law and Economics Association, **Stanford Law School**, May 13, 1994; **American Bar Foundation**, September 7, 1994; Faculty Workshop, **DePaul Law School**, September 21, 1994; Law and Economics Workshop, **University of Chicago Law School**, October 11, 1994; Faculty Seminar, **Stanford Law School**, October 31, 1994; Law and Economics Luncheon, **Stanford Law School**, November 1, 1994; Faculty Seminar Workshop, **University of Illinois College of Law**, Champaign, November 22, 1994; Law and Economics Workshop, **Harvard Law School**, November 29, 1994; School Alumni Luncheon, Chicago Club, December 13, 1994; **Northwestern Law School**; Law and Economics Workshop, **Yale Law School**, February 1, 1996; Faculty Workshop, **Cornell Law School**,

April 10, 1996; Faculty Workshop, **Tokyo University Law School**, June 4, 1996; Panel on "The Economics of Crime," **Western Economics Association** Meeting, San Francisco, July 1, 1996.

- "The Broad Path of Law and Economics," Chair Ceremony, **Northwestern University School of Law**, September 30, 1994.
- Commentator on Paul Robinson's "A Failure of Moral Conviction," **Northwestern University School of Law**, September 20, 1994.
- "The Do's of Diversity, The Don'ts of Discrimination," Kellogg School of Business, **Northwestern University**, May 17, 1994.
- "Does Law Matter in the Realm of Discrimination?" **Law and Society Summer Institute**, Pala Mesa Lodge, Fallbrook, California, June 25, 1993.
- Commentator, "The Double Minority: Race and Sex Interactions in the Job Market," Society for the Advancement of Socio-Economics, **New School for Social Research**, March 28, 1993.
- "The Effects of Joint and Several Liability on Settlement Rates: Mathematical Symmetries and Meta-Issues in the Analysis of Rational Litigant Behavior," Economic Analysis of Civil Procedure, **University of Virginia School of Law**, March 26, 1993.
- Debate with Richard Epstein on Employment Discrimination Law, **Chicago Federalist Society**, February 23, 1993.
- Panel Chair, "Optimal Sanctions and Legal Rules in Tort and Criminal Law," Meetings of Annual Association of Law and Economics, **Yale Law School**, May 15, 1992.
- Panel Member, "The Law and Economics of Employment at Will," **The Institute For Humane Studies**, Fairfax, Virginia, March 27, 1992.
- "The Efficacy of Title VII," Debate with Professor Richard Epstein, **University of Chicago Law School**, February 26, 1992.
- Moderator, "Using Testers to Demonstrate Racial Discrimination," **University of Chicago Law School**, February 13, 1992.
- "Law & Macroeconomics: The Effect of the Business Cycle on Employment Discrimination Litigation," Law and Society Workshop, **Indiana University**, November 6, 1991; Faculty Workshop, **University of North Carolina Law School**, Chapel Hill, November 8, 1991; Faculty Workshop, **Northwestern University School of Law**, December 11, 1991; Law and
- Economics Conference, **Duquesne Law School**, March 14, 1992; **University of Chicago Law School**, April 2, 1992.
- Panel Chair and Commentator, "New Perspectives on Law and Economics," **Society for the Advancement of Socioeconomics**, Stockholm, June 17, 1991; **Law and Society Meetings**, Amsterdam, June 29, 1991.
- Panel Chair, "Regulation of International Capital Markets," **Law and Society Meetings**, Amsterdam, June 27, 1991.

- Panel Chair, "The Law and Economics of Discrimination," American Association of Law and Economics, **University of Illinois Law School**, May 24, 1991.
- "The Economics of Employment Discrimination Law," **Industrial Relations Research Association**, Chicago, Illinois, March 4, 1991.
- "Does Current Employment Discrimination Law Help or Hinder Minority Economic Empowerment?" Debate with Professor Richard Epstein, The Federalist Society, **Northwestern Law School**, February 26, 1991.
- Panel Member, "The Law and Economics of Employment Discrimination," **AALS Annual Meeting**, Washington, D.C., January 6, 1991.
- "Re-Evaluating Federal Civil Rights Policy," Conference on the Law and Economics of Racial Discrimination in Employment, **Georgetown University Law Center**, November 30, 1990.
- "Opting for the British Rule," Faculty Seminar, **Northwestern Law School**, September 11, 1990; Faculty Seminar, **University of Virginia Law School**, September 14, 1990; Law and Economics Seminar, **University of Michigan Law School**, October 18, 1990; Faculty Workshop, **NYU Law School**, November 14, 1990; Faculty Workshop, **University of Florida Law School**, March 18, 1991.
- "The Effects of Fee Shifting on the Settlement Rate: Theoretical Observations on Costs, Conflicts, and Contingency Fees," at the **Yale Law School Conference "Modern Civil Procedure: Issues in Controversy,"** June 16, 1990.
- "Studying the Iceberg From Its Tip?: An Analysis of the Differences Between Published and Unpublished Employment Discrimination Cases," **Law and Society Meetings**, Berkeley, California, May 31, 1990.
- Panel Discussion on Tort Reform, **University of Pennsylvania Law School**, April 27, 1990.
- Panel Discussion of "The Role of Government in Closing the Socio-Economic Gap for Minorities," at the Federalist Society National Symposium on "The Future of Civil Rights Law," **Stanford Law School**, March 16, 1990.
- "Continuous versus Episodic Change: The Impact of Affirmative Action and Civil Rights Policy on the Economic Status of Blacks," **University of Virginia Economics Department**, February 15, 1990; **Princeton University Department of Economics**, February 21, 1990 (with James Heckman); Law & Economics Workshop, **University of Toronto Law School**, October 8, 1991.
- "Sex Discrimination in the Workplace: An Economic Perspective," Fellows Seminar, **American Bar Foundation**, October 16, 1989.
- "The Changing Nature of Employment Discrimination Litigation," Law and Economics Workshop, **Columbia Law School**, March 23, 1989; Faculty Seminar, **University of Virginia Law School**, March 24, 1989; Law and Economics Workshop, **University of Chicago**, April 25, 1989; **Law & Society Meeting**; Madison, Wisconsin, June 8, 1989; Labor Economics Workshop, **University of Illinois**, Chicago, November 1, 1989; Law & Economics Workshop, **University of Pennsylvania Law School**, November 9, 1989; Law and Economics Seminar, **University of California at Berkeley**, October 4, 1990; Law and Social Science Workshop, **Northwestern University**, February 3, 1991; Law and Economics Seminar, **Stanford Law School**, March 21, 1991; Faculty Workshop, **Cornell Law School**, April 3, 1991; Visiting Committee, **Northwestern Law School**, April 5, 1991.

- "Law & Economics: The Third Phase," The Association of General Counsel, **Northwestern University School of Law**, October 14, 1988.
- "Employment Discrimination Litigation," **Northwestern Law School Alumni Monthly Loop Luncheon. Chicago Bar Association**, May 31, 1988.
- "The Morality of the Death Penalty." A debate with Ernest Van Den Haag. **Northwestern University School of Law**, April 19, 1988.
- "Models of Deregulation of International Capital Markets." A presentation with David Van Zandt, Faculty Seminar, **Northwestern University School of Law**, April 1, 1988; Visiting Committee, May 5, 1988.
- "Is Title VII Efficient?" A debate with Judge Richard Posner, Faculty Seminar, **Northwestern University School of Law**, November 20, 1987.
- "The Senate's Role in Confirming Supreme Court Nominees: The Historical Record," **Northwestern University School of Law**, September 22, 1987.
- "Diverting the Coasean River: Incentive Schemes to Reduce Unemployment Spells," **Yale Law School Civil Liability Workshop**, March 30, 1987; Faculty Seminar, **Northwestern University School of Law**, March 18, 1987; **University of Southern California Law Center**, May 1, 1987; and Seminar in Law and Politics, Department of Political Science, **Northwestern University**, May 8, 1987; Labor Workshop, Department of Economics, **Northwestern University**, October 27, 1987; **AALS Annual Meeting**, New Orleans, January 7, 1989.
- "Women in the Labor Market--Are Things Getting Better or Worse?" **Hamilton College**, February 23, 1987.
- "The Changing Relative Quit Rates of Young Male and Female Workers," **Hamilton-Colgate Joint Faculty Economics Seminar**, February 23, 1987.
- "Living on Borrowed Money and Time--U.S. Fiscal Policy and the Prospect of Explosive Public Debt," **Orange Rotary Club**, February 22, 1985.
- "Capital Punishment in the Eighties," **Hamilton College**, April 6, 1981.
- "Terms and Conditions of Sale Under the Uniform Commercial Code," Executive Sales Conference, **National Machine Tool Builders' Association**, May 12, 1980.

AWARDS

- **47th Tikkun Olam Award**, The Haiti Jewish Refugee Legacy Project, February 2014, "Awarded for incredibly significant work that explores and inspires the search for justice and taking serious, correct and timely action." Tikkun Olam is a Hebrew phrase that means 'repairing the world.'
- <https://haitiholocaustsurvivors.wordpress.com/guest-posts/47th-tikkun-olam-award-to-professor-john-i-donohue-iii/>

PROFESSIONAL ACTIVITIES

- Statistical Consultant to the Fairness Committee of the 9th Circuit Court of Appeals investigating issues of sentencing disparities by race, ethnicity, and gender in federal criminal sentencing.

- Legal Scholarship Network Advisory Board Member, SSRN.
- Member, Committee on Law and Justice, National Research Council, October 2011 – December 2018.
- Fellow of the Society for Empirical Legal Studies, 2015 - present.
- Member, International Advisory Council, Economic Order Study Center, Federal University of San Paolo, Brazil.
- Co-Editor (with Steven Shavell), American Law and Economics Review, May 2006 – August 2012.
- President, American Law and Economics Association, May 2011 – May 2012.
- Co-President, Society for Empirical Legal Studies, November 2011 - August 2012. Member, Board of Directors from November 2011 - November 2014.
- Testified before the Connecticut Legislature in Support of Senate Bill 1035 and House Bill 6425 (A Bill to Eliminate the Death Penalty), March 7, 2011; Testified again before the Connecticut Judiciary Committee on March 14, 2012.
- Member of the Special Committee on ALI Young Scholars Medal, October 2009 – February 2011.
- Vice-President/President Elect, American Law and Economics Association, June 2010 – May 2011.
- Secretary-Treasurer, American Law and Economics Association, June 2009 – May 2010.
- Board of Advisors, Yale Law School Center for the Study of Corporate Law, July 2004 – August 2010.
- Evaluated the Connecticut death penalty system: “Capital Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation from 4600 murders to One Execution,”
http://works.bepress.com/john_donohue/137/
- Member, Panel on Methods for Assessing Discrimination, National Academy of Sciences, September 2001 – June 2004. Resulting Publication: National Research Council, Measuring Racial Discrimination (2004),
<http://www.nap.edu/catalog/10887.html>
- Member, National Science Foundation Review Panel, Law and Social Sciences, September, 1999 – April 2001.
- Editorial Board, Journal of Empirical Legal Studies, July 2003 – present.
- Editorial Board, International Review of Law and Economics, October 1999 – present.
- Editorial Board, Law and Social Inquiry, February 2000 – present.
- Board of Editors, American Law and Economics Review, August 1998 – April 2013.
- Consultant, Planning Meeting on Measuring the Crime Control Effectiveness of Criminal Justice Sanctions, National Academy of Sciences, Washington, D.C., June 11, 1998
- Member, Board of Directors, American Law and Economics Association, June 1994-May 1997. Member, ALEA Nominating Committee, July 1995-May 1996. Member, Program Committee, July 1996-May 1998 and July 2000 – May 2002.

- Statistical Consultant, 7th Circuit Court of Appeals Settlement Conference Project (December, 1994).
- Testified before U.S. Senate Labor Committee on evaluating the Job Corps, October 4, 1994.
- Assisted the American Bar Association Standing Committee on the Federal Judiciary in evaluating the qualifications of Ruth Bader Ginsburg (June 1993) and David Souter (June, 1990).
- Chair, AALS Section on Law and Economics, January 1990-January 1991.
- Economic Consultant to Federal Courts Study Committee. Analyzing the role of the federal courts and projected caseload for Judge Richard Posner's subcommittee. February 1989-March 1990.
- Member, 1990 AALS Scholarly Papers Committee.
- Member, Advisory Board, Corporate Counsel Center, Northwestern University School of Law. Since December 1987.
- Associate Editor, Law and Social Inquiry. Summer 1987-December 1989.
- Interviewed Administrative Law Judge candidates for U.S. Office of Personnel Management. Chicago, Illinois. May 23, 1988.
- Member, Congressman Bruce Morrison's Military Academy Selection Committee. Fall 1983.
- 1982 Candidate for Democratic Nomination, Connecticut State Senate, 14th District (Milford, Orange, West Haven).

PRO BONO LEGAL WORK

- Death Penalty case: Heath v. Alabama. Fall 1986-Fall 1989.
- Wrote brief opposing death sentence in Navy spy case. Court ruled in favor of defendant on September 13, 1985.
- Staff Attorney, Neighborhood Legal Services, January-July 1981.
- Appealed sentence of death for Georgia defendant to the United States Supreme Court. Sentence vacated on May 27, 1980. Baker v. Georgia.
- Court-appointed representation of indigent criminal defendant in District of Columbia Superior Court, February-July 1980.

RESEARCH GRANTS

- Stanford University Research Fund, January 1997 and January 1998.
- The National Science Foundation (project with James Heckman), December 1992; (project with Steve Levitt), July 1997.
- Fund for Labor Relations Studies, University of Michigan Law School, March 1988.

BAR ADMISSIONS

- Connecticut - October 1977; District of Columbia - March 1978 (Currently Inactive Status); United States Supreme Court - November 3, 1980; U.S. District Court for the District of Connecticut – February 14, 1978.

PROFESSIONAL and HONORARY ASSOCIATIONS

- American Academy of Arts and Sciences (since April 2009).
- Research Associate, National Bureau of Economic Research (since October 1996) – in Law and Economics and Labor Studies.
- American Law Institute (since September 29, 2010).
- Member, Fellows of the Society for Empirical Legal Studies (since October 2015).
- American Bar Association
- American Economic Association
- American Law and Economics Association

PERSONAL

- Born: January 30, 1953.

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Firearms*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JAMES MILLER, et al.,

Plaintiffs,

v.

**CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA,
et al.,**

Defendants.

19-cv-1537 BEN-JLB

**DECLARATION OF BLAKE
GRAHAM IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF BLAKE GRAHAM

I, Blake Graham, declare:

1. I am a Special Agent in Charge for the California Department of Justice, Bureau of Firearms. I make this declaration in support of Defendants' opposition to Plaintiffs' motion for a preliminary injunction. This declaration is based on my own personal knowledge and experience, and if called as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

BACKGROUND AND QUALIFICATIONS

2. I received a Bachelor of Science degree in May 1992 in Criminal Justice from the California State University Sacramento. My coursework included forensics, corrections, and a number of classes in criminal justice-related topics.

3. Since 1994, I have worked as either an investigator for the California Department of Alcoholic and Beverage Control (ABC) or as a Special Agent for the California Department of Justice (DOJ). My job responsibilities in all of these positions have involved the recovery, investigation, and identification of firearms, the ammunition used for those firearms, and the magazines used for feeding ammunition for those firearms.

4. My work as an Investigator for ABC between 1994 and 1999 included the recovery of firearms, magazines, and ammunition.

5. Between 1999 and 2002, I worked as a Special Agent for DOJ, and was assigned to the Violence Suppression Program in the Bureau of Narcotic Enforcement. In this job, I investigated violent crimes and various violations occurring at California gun shows. As a gun-show enforcement agent, I attended gun shows in the San Francisco Bay Area to monitor, and if necessary, seize, firearms, ammunition, and magazines sold illegally to felons, parolees, and probationers.

1 6. From October 2002 to March 2019, I was a Special Agent and Special
2 Agent Supervisor, for the DOJ's Bureau of Firearms (BOF). In that capacity, I was
3 assigned to recover firearms from prohibited individuals, monitor gun shows for
4 illegal activities, conduct surveillance on gun dealers suspected of illegal activity,
5 and investigate illegal trafficking of firearms, manufacturing of assault weapons
6 and machine guns, and illegal possession of various magazines and ammunition.
7 From April, 2019 to the present, I have been a Special Agent in Charge, for the
8 BOF. In this capacity, I supervise teams of Special Agents who are assigned to
9 recover firearms from prohibited individuals, monitor gun shows for illegal
10 activities, conduct surveillance on gun dealers suspected of illegal activity, and
11 investigate illegal trafficking of firearms, manufacturing of assault weapons and
12 machine guns, and illegal possession of various magazines and ammunition.

13 7. Since 2008, I have been responsible for reviewing handguns that are
14 submitted by manufacturers for inclusion in California's roster of handguns certified
15 for sale. A copy of the roster can be found on the DOJ website:
16 <http://certguns.doj.ca.gov/>.

17 8. During my career, I have attended at least 40 gun shows and have
18 become knowledgeable about current laws pertaining to the sales of firearms,
19 assault weapons identification, assault weapons registration, the Automated
20 Firearms System (AFS), ammunition, and ammunition containers—including large-
21 capacity magazines (LCMs)—in the State of California.

22 9. I have been trained and qualified to carry several different types of
23 firearms, including the Glock Model 17 (9 mm semiautomatic pistol), multiple
24 Glock .40 caliber semiautomatic pistols, the Heckler & Koch MP5 (9 mm
25 submachine gun), the Smith & Wesson, Model 60 (.38 Special revolver), multiple
26 .45 caliber semiautomatic pistols, and the Colt, Model M4 (5.56 mm machine gun).
27 I have access to other Department-owned handguns, shotguns, submachine guns,
28 machine guns, rifles, shotguns and 40 mm "less lethal" launchers.

1 these lists are commonly referred to as Category 1 and Category 2 weapons,
2 respectively. Some of the firearms listed in Penal Code section 30510 are weapons
3 that were prohibited under the federal assault weapons ban, which was in effect
4 from 1994 to 2004. In general, the firearms listed in Penal Code section 30510 and
5 the additional ones listed in the regulations could be considered semiautomatic
6 versions of military weapons. It is my understanding that the Plaintiffs in this
7 litigation are not challenging the assault weapons listed in section 30510 of the
8 Penal Code or section 5499 of title 11 of the California Code of Regulations.

9 16. In response to attempts by firearm manufacturers to circumvent the
10 AWCA, in 2000, the California Legislature amended the AWCA to include an
11 alternative definition of assault weapons based on certain features or characteristics
12 of the firearm instead of their make or model. The features-based definitions are
13 provided in Penal Code section 30515; firearms subject to the AWCA under these
14 alternative definitions are generally referred to as Category 3 weapons. While it is
15 not necessary for a Category 1 or Category 2 assault weapon to have certain
16 features, those listed weapons usually share one or more of the features listed in
17 Penal Code Section 30515. For semiautomatic rifles that qualify as assault
18 weapons, the most common feature of prohibited assault weapons is likely the
19 pistol grip. The next most common features are probably telescoping stocks and
20 flash suppressors. In my experience, assault pistols and assault shotguns are much
21 less common in California than assault rifles. .

22 17. I understand that Plaintiffs in this case are challenging California's
23 restrictions on assault weapons that apply to rifles, pistols, and shotgun deemed to
24 be assault weapons under Penal Code section 30515(a), i.e., Category 3 assault
25 weapons.

26 18. The California Attorney General's Office has released an Assault
27 Weapons Identification Guide (last updated in November 2001). The guide
28 provides photographs of Category 1 and Category 2 assault weapons, as well as a

1 discussion of the features-based definitions for Category 3 assault weapons. A true
 2 and correct copy of the Assault Weapons Identification Guide is attached as
 3 Exhibit A to this declaration. As noted, many of the Category 3 assault weapons
 4 have the same features as Category 1 and Category 2 weapons, so the photographs
 5 of those categories are illustrative of the features for Category 3 weapons. While
 6 the terms “assault rifle,” “assault pistol,” and “assault shotgun” are not used in the
 7 Penal Code, I use those terms in this declaration to refer to rifles, pistols, and
 8 shotguns, respectively, that qualify as assault weapons under the statute.

9 **I. ASSAULT-WEAPON DEFINITIONS BASED ON PROHIBITED FEATURES OR**
 10 **CHARACTERISTICS**

11 **A. Assault Rifles (Section 30515(a)(1)-(3))**

12 19. Penal Code section 30515(a)(1) defines an assault weapon to include
 13 “a semiautomatic, centerfire rifle that does not have a fixed magazine but has any
 14 one” of the following features:¹

- 15 a. A pistol grip that protrudes conspicuously beneath the action of the
 16 weapon.
- 17 b. A thumbhole stock.
- 18 c. A folding or telescoping stock.
- 19 d. A grenade launcher or flare launcher.
- 20 e. A flash suppressor.
- 21 f. A forward pistol grip.

22 **1. Semiautomatic**

23 20. As a threshold matter, this features-based definition applies to only
 24 semiautomatic, centerfire rifles that lack a fixed magazine. A semiautomatic rifle is
 25 “a firearm functionally able to fire a single cartridge, eject the empty case, and
 26 reload the chamber each time the trigger is pulled and released.” California Code

27 ¹ These features have been defined for purposes of assault-weapon
 28 registration in section 5471 of title 11 of the California Code of Regulations
 (hereafter, Section 5471). A true and correct copy of Section 5471 is attached as
 Exhibit B.

1 of Regulations, Title 11, § 5471(hh). An automatic firearm, otherwise known as a
2 “machine gun or sub-machinegun,” by contrast, fires multiple rounds with a single
3 pull of the trigger. The California Penal Code defines “machinegun” to mean “any
4 weapon that shoots, is designed to shoot, or can be readily restored to shoot,
5 automatically more than one shot, without manual reloading, by a single function of
6 the trigger.” Penal Code, § 16880(a). Some machineguns and submachine-guns
7 can be set to fire in “burst” mode with a fixed number of rounds being fired with
8 each pull of the trigger. More commonly, a functional and fully loaded machine
9 gun or sub-machine gun can fire or continuously until the trigger is released.
10 Select-fire rifles can alternate between semiautomatic fire and automatic and/or
11 burst fire depending on the setting selected by the shooter. Law enforcement
12 officers are generally issued semiautomatic rifles.

13 **2. Centerfire**

14 21. The next threshold requirement for the features-based definition is that
15 the rifle be a “centerfire” rifle. “Centerfire” refers to the type of ammunition the
16 firearms were built to fire, namely a “cartridge with its primer located in the center
17 of the base of the case.” California Code of Regulations, Title 11, § 5471(j). This
18 excludes all semiautomatic rimfire (usually .22 caliber) rifles that might have one or
19 more listed features.

20 22. Centerfire rifles generally use rounds that are associated with increased
21 lethality. The United States military uses various centerfire rifle rounds (5.56 mm
22 and 7.62 x 51, for example) in multiple weapons systems. Some California assault
23 rifles are capable of firing the same centerfire rounds as these military weapons and
24 could have the same high capacity for firepower as the military weapons. In my
25 experience being around the California gun industry and gun culture for nearly 20
26 years, rounds most commonly used with assault rifles are rifle-caliber rounds such
27 as .223 caliber, 5.56 mm, or 7.62 x 39 mm. These rounds will typically defeat
28 normal bullet resistant body armor used by law enforcement. While rifle resistant

1 plates can be added to most law enforcement body armor, the rifle plates are not
2 going to block or resist rifle-caliber rounds fired at all angles. Some rifle rounds
3 are strong enough to defeat even the rifle-resistant plates available to law
4 enforcement.

5 23. Some assault rifles are chambered in traditional pistol-caliber rounds,
6 such as 9 mm, .40, and .45 calibers. Pistol-caliber rounds fired from assault rifles
7 chambered in these calibers may or may not be stopped by traditional law
8 enforcement body armor. Generally, the longer the barrel the faster the bullet will
9 travel. A rifle and handgun both shooting the same ammunition may have different
10 results in terms of penetrating body armor of equal protection levels. The shorter
11 barrel lengths usually associated with a normal semiautomatic handgun might be 3-
12 5 inches long. By state and federal law, a rifle generally must have at least a 16-
13 inch long barrel. The rifle barrel being at least three times longer than most
14 semiautomatic handgun barrels leads to the bullet leaving the barrel at a higher rate
15 of speed (or higher muzzle velocity). In general, the faster the bullet is traveling,
16 the more likely it is to defeat body armor. For example, the higher muzzle velocity
17 of .223 rounds shot out of a rifle can penetrate the soft body armor worn by most
18 law enforcement personnel, and can have greater range depending on the weapon.

19 **3. Lacking a Fixed Magazine Capable of Holding No More**
20 **than 10 Rounds**

21 24. In addition to applying to only semiautomatic, centerfire rifles, the
22 features-based definition applies to rifles that lack a “fixed magazine,” which the
23 Penal Code defines as “an ammunition feeding device contained in, or permanently
24 attached to, a firearm in such a manner that the device cannot be removed without
25 disassembly of the firearm action.” Penal Code § 30515(b). Generally,
26 ammunition is supplied to semiautomatic rifles by magazines, which hold a certain
27 number of rounds and can be either detachable or fixed to the firearm. A rifle that
28 lacks a fixed magazine allows the shooter to rapidly exchange a depleted magazine

1 with a fully loaded one, enabling a shooter to fire a large number of rounds near-
2 continuously. In the event of a public shooting, this may deprive an opportunity for
3 law enforcement or the public to intervene to save lives.

4 25. As with the former federal assault weapons ban, California defines
5 large-capacity magazines (LCMs) as any ammunition feeding device with the
6 capacity to accept more than 10 rounds. Some LCMs can hold 20, 30, 50, 75 or
7 100 rounds of ammunition at a time. Because semiautomatic, centerfire rifles that
8 have fixed LCMs qualify as assault weapons under section 30515(a)(2), the
9 features-based definition will not apply to a rifle that has a fixed magazine capable
10 of holding no more than 10 rounds.

11 26. LCMs are often used in conjunction with assault weapons that lack a
12 fixed magazine. California separately restricts the manufacture, sale, and
13 importation of LCMs in Penal Code section 32310. In 2016, California amended
14 the law to generally prohibit the possession of LCMs, but as of this writing, the
15 possession restrictions have been enjoined. LCMs are also illegally sold to
16 California residents or illegally imported from other states.

17 27. LCMs enable a shooter to fire many more rounds without having to
18 reload, which, as with rifles that lack a fixed magazine discussed above, may
19 reduce the frequency of pauses during shootings and further reduces opportunities
20 for law enforcement or the public to intervene to save lives. A person intent on
21 doing harm to the public or law enforcement will often pair assault weapons and
22 multiple LCMs to maximize the lethality of their attacks. As discussed below,
23 assault weapons with LCMs have been used in numerous mass shootings and gun
24 violence against peace officers.

25 **4. Prohibited Features**

26 28. A “pistol grip that protrudes conspicuously beneath the action of the
27 weapon” is “a grip that allows for a pistol style grasp in which the web of the
28 trigger hand (between the thumb and index finger) can be placed beneath or below

1 the top of the exposed portion of the trigger while firing.” California Code of
2 Regulations, title 11, § 5471. In my experience, this feature is the most prevalent
3 feature of assault rifles prohibited under the AWCA. Pistol grips are used in most
4 modern military machine guns and civilian semiautomatic rifle versions of these
5 firearms. The designers of military-style firearms are including this feature more
6 and more. A pistol grip on an assault rifle enhances the ergonomics of the weapon.
7 A shooter using an assault rifle without a pistol grip may shoot less accurately with
8 repeated—and especially rapid—shots if the shooter’s trigger hand is in an
9 awkward position for a significant amount of time.

10 29. Mr. Kapelsohn claims in his declaration that a pistol grip is not
11 necessary to prevent muzzle rise when firing a semiautomatic AR-15 platform rifle,
12 suggesting that muzzle rise is only a problem for fully automatic fire. (Kapelsohn
13 Decl. ¶ 28.) While this may be true for the firing of a single shot, it is generally not
14 true when firing multiple shots in quick succession. When a semiautomatic rifle,
15 like an AR-15, is fired rapidly, the rifle will generally exhibit muzzle rise, and a
16 pistol grip would help the shooter maintain accurate fire when shooting rapidly.
17 Furthermore, depending on the weapons system and the shooter’s skill level, the
18 pistol grip may help a shooter complete magazine exchanges quicker. In addition, a
19 pistol grip may help a shooter maintain aim on a target while reloading, and perhaps
20 even fire a chambered round while reloading.

30. A “thumbhole stock” is “a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.” California Code of Regulations, title 1, § 5471(qq). It allows for a grip similar to that offered by a pistol grip and can provide similar benefits to a shooter firing a rifle rapidly. Below is a photograph showing a thumbhole stock on a rifle.



31. A “telescoping stock” is “a stock which is shortened or lengthened by allowing one section to telescope into another portion.” California Code of Regulations, title 11, § 5471(oo). On AR-15 style firearms, the buffer tube or receiver extension acts as the fixed part of the stock on which the telescoping butt stock slides or telescopes. A “folding stock” is “a stock which is hinged in some fashion to the receiver to allow the stock to be folded next to the receiver to reduce the overall length of the firearm.” California Code of Regulations, title 11, § 5471(nn). A folding stock or telescoping stock that still allows the shooter to fire the rifle while the stock is folded or shortened and would likely provide a shooter with a tactical advantage because it is more versatile.

32. The tactical advantage provided by a telescoping or folding stock include decreased overall length of the rifle by the shooter if desired for concealability. This feature is beneficial for law enforcement purposes. For example, when law enforcement personnel conduct room to room searches of a building, they would not want to give away their locations. More compact weapons with folding or telescoping stocks may maintain the advantage of surprise. Semiautomatic weapons deployed by law enforcement with extremely long overall lengths may be seen by antagonists who mean to do harm to law enforcement.

1 Telescoping or folding stocks also allow for easier transportation and storage of the
2 weapon and to more quickly allow the user to adjust the weapon for a better fit, but
3 these are secondary considerations, particularly in the civilian context.

4 33. Subjects intent on shooting one or more persons may have a tactical
5 advantage by using a weapon with a shorter overall length. This tactical advantage
6 described above for law enforcement can also be used by a shooter wishing to
7 remain undetected for as long as possible. A weapon with a shorter overall length
8 could also permit the shooter to smuggle the weapon undetected (by, for example,
9 hiding the weapon in a backpack or bag) or to hide in the crowd without
10 telegraphing the shooter's location. A smaller weapon can also be concealed on the
11 shooter's person underneath loose or bulky clothing.

12 34. A "grenade launcher" is "a device capable of launching a grenade,"
13 which are classified under federal law as destructive devices. California Code of
14 Regulations, title 11, § 5471(v). There is no conceivable civilian need for a grenade
15 launcher.

16 35. A "flare launcher" is "a device used to launch signal flares," California
17 Code of Regulations, title 11, § 5471(q), which can be used in emergency situations
18 or in military operations. While flares may serve legitimate safety and rescue
19 purposes in certain circumstances, for example on ships in open water, I can think
20 of no legitimate reason for a civilian to launch flares from a rifle.

21 36. A "flash suppressor" is "any device attached to the end of the barrel,
22 that is designed, intended, or functions to perceptibly reduce or redirect muzzle
23 flash from the shooter's field of vision. A hybrid device that has either advertised
24 flash suppressing properties or functionally has flash suppressing properties would
25 be considered a flash suppressor. A device labeled or identified by its manufacturer
26 as a flash hider would also be considered a flash suppressor." California Code of
27 Regulation, title 11, § 5471(r).

1 37. Most everyone has experienced a flash from a camera in our lifetimes.
2 This camera flash can cause vision problems for people viewing the flash. A
3 firearm, in low light conditions may produce muzzle flash with each round fired.
4 The muzzle flash may create vision problems for the shooter, which may cause the
5 shooter to shoot less accurately. Two rifles, one with a flash suppressor and one
6 without, shooting the same ammunition with the same length barrels should
7 perform differently in terms of reducing the amount of flash created. The rifle with
8 the flash suppressor should be easier to shoot in low light conditions because the
9 shooter should have less problems aiming accurately. Additionally, a flash
10 suppressor can help conceal the location of a shooter in low light conditions.
11 Mr. Kapelsohn claims that flash concealment is primarily for military purposes.
12 (Kapelsohn Decl. ¶ 33.) But a shooter intent on shooting people in public at night
13 could take advantage of this effect and frustrate law enforcement efforts to stop the
14 shooting.

15 38. A “forward pistol grip” is a grip that allows for a pistol-style grasp
16 forward of the trigger. Many modern military machine guns, submachine guns and
17 assault rifles worldwide have built-in forward pistol grips or locations that allow for
18 forward pistol grips to be attached. This feature can aid the shooter by offering an
19 optional grip location on the rifle for the shooter’s non-trigger hand to stabilize the
20 weapon during repeated semiautomatic fire.

21 39. Overall, in my experience, the challenged features described in Penal
22 Code section 30515(a)(1), individually and especially when combined with other
23 listed features, may assist shooters in being more effective and efficient while
24 rapidly firing semiautomatic, centerfire rifles. They are not merely “cosmetic” as
25 suggested by Mr. Kapelsohn. (Kapelsohn Decl. ¶ 38.) (And if they were merely
26 cosmetic, the plaintiffs would have no need for the features to engage in effective
27 self-defense.)
28

1 40. I have observed the videotaped demonstration of one of the Plaintiffs'
2 declarants, Adam Kraut, which purports to show that a “featureless” rifle fires as
3 rapidly and accurately as—or, according to the demonstration, more accurately
4 than—a rifle with certain prohibited features. This demonstration, however, was
5 not performed under controlled circumstances, does not indicate how many
6 repeated “takes” were filmed to obtain the results, and does not account for other
7 tactical advantages that may be gained from some of the features, such as enhanced
8 concealment from flash suppressors or adjustable stocks. In my experience, assault
9 rifles with one or more of the prohibited features will shoot more accurately when
10 fired rapidly. And as discussed below, many mass murders choose to use assault
11 rifles to carry out their attacks.

12 **5. Additional Assault Rifles**

13 41. Penal Code section 30515(a)(2) also defines an “assault weapon” as a
14 “semiautomatic, centerfire rifle that has a fixed magazine with the capacity to
15 accept more than 10 rounds”—in other words, a semiautomatic, centerfire rifle with
16 a fixed LCM. As discussed previously, LCMs enable a shooter to fire more rounds
17 in a given period of time, by reducing the frequency by which the shooter needs to
18 reload the firearm. LCMs are used frequently in mass shootings, such as the 2015
19 shooting in San Bernardino or the 2018 shooting in Thousand Oaks. LCMs can
20 also enable criminals to engage in sustained firefights with law enforcement
21 personnel, causing more deaths and injuries, such as the 1997 bank robbery in
22 North Hollywood.

23 42. Detachable large-capacity magazines have been used in numerous
24 mass shootings, such as the 1989 shooting at Cleveland Elementary School in
25 Stockton, California, which prompted the enactment of the original AWCA.
26 Generally, a rifle equipped with a fixed 30-round LCM would have the capability
27 of firing more rounds in a given period of time than an identical rifle with a fixed
28 10-round magazine because it would hold more rounds and would need to be

1 reloaded less frequently. In other words, a shooter firing a semiautomatic rifle
2 would conceivably be able to fire for a longer period of time before exhausting his
3 or her ammunition and having to reload a LCM than for a 10-round magazine. And
4 even fixed magazines can be reloaded quickly—almost as quickly as a detachable
5 magazine—when a rifle is assembled or modified in a way that allows for the rapid
6 separation and reconnection of the lower and upper receivers. Thus, a “fixed” LCM
7 may not prevent the rapid reloading of a rifle, which would produce the same
8 public-safety threats posed by detachable LCMs.

9 43. Penal Code section 30515(a)(3) also defines an assault weapon as a
10 “semiautomatic, centerfire rifle that has an overall length of less than 30 inches.”
11 According to California Code of Regulations, title 11, section 5471(x), the length of
12 the rifle is measured in the shortest possible configuration in which the weapon will
13 function or fire. A shorter rifle is more concealable. As with the adjustable stocks
14 discussed above, the enhanced concealability of a rifle raises significant public
15 safety concerns.

16 **6. The Suitability of Assault Rifles for Military and Law** 17 **Enforcement Uses**

18 44. Semiautomatic rifles that qualify as assault weapons are generally
19 modeled after successful military machine guns and submachine guns. Generally,
20 rifles currently deemed to be assault weapons under California law have had a
21 similar version issued to a military or police force somewhere in the world. For
22 example, the AR-15 is the civilian version of the military M-16. The main
23 difference between those military-issue firearms and firearms deemed to be assault
24 weapons under California law is that assault weapons are semiautomatic. In some
25 cases, military or police forces might issue semiautomatic rifles that are
26 functionally the same as defined California assault weapons in terms of “rate of
27 fire” or “capacity for firepower.”
28

45. The photo below depicts a Sturm Ruger, Mini-14/Ranch Rifle with no prohibited features listed in Penal Code section 30515. It is a semiautomatic center fire rifle that is not an assault weapon. It is effectively “featureless” in terms of Penal code section 30515. These types of rifles are currently legal for sale in California and can be lawfully transferred and possessed by California residents who follow state and federal laws. It has a traditional wooden stock, no pistol grip and no muzzle device:



46. The semiautomatic centerfire rifle depicted below is a Sturm Ruger, Mini-14/Ranch Rifle with a folding stock, pistol grip and flash suppressor on the end of the barrel. These types of rifles are currently not legal for sale in California and cannot be lawfully transferred by California residents.



47. Rifles that qualify as assault weapons under Penal Code Section 30510, typically will have one or more features that are listed in Penal Code Section 30515 (pistol grip, etc.). One or more of these features are also seen in many if not most of the firearms depicted in the Assault Weapon Identification Guide.

48. As noted by Mr. Kapelsohn, assault rifles have reportedly been used by law-abiding individuals for self-defense. (Kapelsohn Decl. ¶¶ 19-24.) That

1 does not mean, however, that those rifles were particularly suitable for self-defense
2 or that a different firearm would have been less effective. Any weapon, even a
3 fully automatic machine gun or a grenade launcher, could conceivably be used for
4 self-defense. But machine guns and grenade launchers are not particularly suitable
5 for civilian self-defense applications.

6 49. Nevertheless, assault rifles are suitable for law enforcement use.
7 There are many instances in which law enforcement and civilians have been hurt
8 and killed by criminals using assault weapons. Law enforcement personnel need to
9 have equal or better weapons than those subjects they are confronting—commonly
10 referred to as a “force multiplier”—so that they are not outgunned by criminals with
11 assault weapons.

12 50. And unlike civilians, law enforcement personnel are often required to
13 enter into dangerous situations to take a shooter into custody. Law enforcement
14 personnel must often affirmatively put themselves in dangerous situations to subdue
15 shooters or other criminal suspects or to protect civilians.

16 51. Law enforcement personnel undergo regular, specialized training to
17 safely and effectively use assault weapons. Each round fired by law enforcement
18 personnel has the potential to cause criminal and/or civil ramifications for
19 individuals employed in this field and their agency they work for. We are trained to
20 consider the backdrop (area behind whatever is being aimed at) to make sure
21 persons or property are not needlessly injured or damaged. Law enforcement
22 agencies commonly require peace officers to maintain regular qualification with
23 duty firearms. These qualifications can sometimes include varied distances from
24 the officer to the target, partially concealed targets, and scenarios in which the best
25 option available to the officer is to not shoot the target (“shoot/don’t shoot”
26 scenarios). Verbal commands and less lethal options are among the options
27 employed by law enforcement in conjunction with potentially lethal force.
28

1 **B. Assault Pistols (Section 30515(a)(4)-(5))**

2 52. California Penal Code section 30515(a)(4) defines any semiautomatic
3 pistol as an assault weapon if it does not have a fixed magazine and has any one (or
4 more) of the following features: (1) a threaded barrel capable of accepting a flash
5 suppressor, a (second) forward hand grip, or a silencer, (2) a second handgrip, (3) a
6 barrel shroud, and (4) the ability to accept a detachable magazine at some location
7 other than the pistol grip beneath the action. The Assault Weapon Identification
8 Guide provides some examples of assault pistols on pages 40 through 48.

9 53. A threaded barrel has grooves on the outside of the barrel that allow
10 any of the listed features to be “screwed” onto the front of the pistol. In addition to
11 a threaded barrel, a “lugged barrel” has lugs at the end of the barrel, which can
12 allow a silencer to be easily attached. California regulates lugged barrels as
13 threaded barrels. (Section 5471(rr).) A threaded barrel would make it relatively
14 easy for a shooter to attach one of the listed features to the weapon quickly, making
15 the weapon more deadly. As I previously discussed in connection with the rifle
16 features, a flash suppressor can help a shooter maintain accurate fire while firing
17 the weapon rapidly in low light settings, and a second, forward pistol grip can help
18 stabilize a firearm during repeated semiautomatic fire. A silencer can help a
19 shooter avoid detection while firing the weapon. During the May 31, 2019 mass
20 shooting in Virginia Beach, Virginia, for example, the shooter used a silencer in an
21 incident that claimed 12 lives and injured 4 others.

22 54. A semiautomatic pistol with a second handgrip—for example a
23 forward pistol grip—can help a shooter maintain rapid fire during a shooting by
24 counteracting muzzle rise. And a barrel shroud can enable a shooter to hold onto
25 the barrel while shooting rapidly without burning the non-shooting hand, which can
26 help with accurate rapid fire in a similar way to a forward handgrip.

27 55. A pistol that has the ability to accept a detachable magazine at a
28 different location than the pistol grip, such as the Bushmaster pistol depicted on

1 page 40 of the Assault Weapons Identification Guide, is indicative of military
2 firearms and is not commonly seen on most civilian handguns. Semiautomatic
3 pistols that accept a detachable magazine allow for reloading inside the pistol grip.

4 56. Finally, California Penal Code section 30515(a)(5) defines a
5 semiautomatic pistol as an assault weapon if it has a fixed LCM. As I discussed
6 earlier in connection with rifles, a pistol with a fixed LCM would enable a shooter
7 to fire more rounds in a given period than an identical pistol with a fixed 10-round
8 magazine, because the pistol would hold more ammunition and would need to be
9 reloaded less frequently. A LCM would permit a shooter firing a semiautomatic
10 pistol to fire for a longer period of time before exhausting his or her ammunition
11 and having to reload compared to a 10-round magazine.

12 57. In my experience, semiautomatic pistols that qualify as assault
13 weapons are not commonly owned by civilians. They have, however, been used for
14 criminal purposes. One of the shooters in the Columbine mass shooting, for
15 example, used an Intratec TEC-9 assault pistol, which is depicted on page 43 of the
16 Assault Weapons Identification Guide.

17 **C. Assault Shotguns (Section 30515(a)(6)-(8))**

18 58. The California Penal Code defines a shotgun to mean “a weapon
19 designed or redesigned, made or remade, and intended to be fired from the shoulder
20 and designed or redesigned and made or remade to use the energy of the explosive
21 in a fixed shotgun shell to fire through a smooth bore either a number of projectiles
22 (ball shot) or a single projectile for each pull of the trigger.” Penal Code § 17190.
23 Penal Code section 30515(a)(7) and (8) define shotguns as assault weapons if they
24 have certain features or characteristics. In addition to birdshot, a shotgun can fire
25 shells containing more lethal buckshot or metal slugs that can cause significant
26 damage at short and long ranges.

27 59. California Penal Code section 30515(a)(6) defines a semiautomatic
28 shotgun as an assault weapons if it has *both* an adjustable stock (either folding or

1 telescoping) and a pistol grip that protrudes conspicuously beneath the action of the
2 shotgun, a thumbhole stock, or a vertical handgrip. As with rifles, an adjustable
3 stock can enhance the concealability of a shotgun, which can help a shooter
4 smuggle the weapon into a sensitive place to engage in crime, such as a shooting or
5 a robbery. A vertical handgrip can enable a shooter to accurately fire multiple
6 shotgun rounds rapidly. Examples of assault shotguns are depicted on pages 50
7 through 53 of the Assault Weapons Identification Guide. Each of the depicted
8 shotguns has a pistol grip beneath the action of the firearm.

9 60. California Penal Code section 30515(a)(7) defines a semiautomatic
10 shotgun as an assault weapon if it can accept a detachable magazine. Typically,
11 shotguns must be reloaded manually by inserting the shells individually into the
12 firearm. Detachable magazines, by contrast, enable a shooter to reload a shotgun
13 rapidly, allowing the shooter to fire more shells in a given period.

14 61. Finally, California Penal Code section 30515(a)(8) defines a shotgun
15 as an assault weapon if it has a revolving cylinder to feed ammunition into the
16 firearm. This includes the “Streetsweeper,” depicted on page 52 of the Assault
17 Weapons Identification Guide, and the “Striker-12,” on page 53 of the guide.
18 Generally, a revolving cylinder can enable a shotgun to hold more shells and
19 enables a shooter to fire those rounds without having to reload as often as a shotgun
20 without a revolving cylinder.

21 62. In my experience, shotguns that qualify as assault weapons are not
22 commonly owned or used by civilians.

23 **II. USE OF ASSAULT WEAPONS IN MASS SHOOTINGS.**

24 63. I am familiar with the use of assault weapons by subjects intending to
25 do harm to civilians and law enforcement.

26 64. Often assault weapons are paired with LCMs during these crimes by
27 the suspects. LCMs are ammunition feeding devices that can hold more than ten
28 rounds, and sometimes up to 100 rounds, of ammunition.

1 65. Semiautomatic assault weapons when loaded with LCMs enable a
2 shooter to potentially fire more than 10 rounds without the need for the shooter to
3 reload the weapon.

4 66. Because LCMs enable a shooter to fire repeatedly without needing to
5 reload every 10 rounds, they significantly increase a shooter's ability to kill and
6 injure large numbers of people quickly.

7 67. Assault weapons have been a popular weapon used in several mass
8 shootings in California and elsewhere.

9 68. Based on my research, all of the shootings listed below involved
10 persons who shot and wounded and/or killed one or more persons, including peace
11 officers, while using assault weapons.

12 a. On July 18, 1984, an individual used a semiautomatic UZI and a
13 Browning Hi-Point rifle to kill 21 people and injure 19 others at a
14 McDonald's restaurant in San Ysidro, California.

15 b. On January 17, 1989, an individual shot and killed 5 and wounded 32
16 others at the Cleveland Elementary School in Stockton, California.
17 He used an AK-47 style rifle and LCMs in the shooting. The
18 Roberti-Roos Assault Weapon Control Act of 1989 was enacted
19 shortly after this shooting.

20 c. On April 20, 1999, 2 individuals used LCMs and an assault rifle and
21 an assault pistol (an Intratec TEC-9) to murder 13 individuals and
22 injure 24 others at Columbine High School in Littleton, Colorado.

23 d. On January 9, 2005, an individual used a LCM and illegal assault
24 weapon to shoot and kill Ceres Police Sgt. Howard Stevenson in
25 Ceres, California.

26 e. On June 15, 2008, an individual used an assault rifle and LCM to
27 shoot and kill Yolo County Sheriff's Deputy Tony Diaz after a
28 traffic stop near Dunnigan, California.

- 1 f. On February 25, 2010, an individual used multiple weapons
2 (including an assault weapon) and LCMs to shoot and kill Fresno
3 County Sheriff's Detective Joel Wahlenmaier and Reedley Police
4 Officer Javier Bejar in Minkler, California.
- 5 g. On July 20, 2012, an individual used an assault weapon and LCMs,
6 including a drum magazine, to kill 12 people and wound 70 others in
7 a movie theater in Aurora, Colorado.
- 8 h. On December 14, 2012, an individual used LCMs and multiple
9 firearms (including an assault weapon) to kill 20 children and 6
10 adults at Sandy Hook Elementary School in Newtown, Connecticut.
- 11 i. On June 7, 2013, an individual—who was previously denied
12 purchase of a firearm by the California Department of Justice—used
13 a home-built AR-15 rifle and LCMs to kill his father and brother at
14 their family home, and then kill 3 and wound 4 others at the Santa
15 Monica, California Community College.
- 16 j. On December 2, 2015, two individuals used assault weapons and
17 LCMs in killing 14 people and wounding 22 others at the Inland
18 Regional Center in San Bernardino, California.
- 19 k. On June 12, 2016, an individual used an assault rifle and LCMs to
20 shoot and kill 49 people and wound 53 others inside a nightclub in
21 Orlando, Florida.
- 22 l. On July 7, 2016, an individual used an assault rifle and a LCM to
23 shoot and kill 5 police officers and wound 9 others in Dallas, Texas.
- 24 m. On July 17, 2016, an individual used an assault rifle and LCMs to
25 shoot and kill 3 police officers and wound 3 other officers in Baton
26 Rouge, Louisiana.
- 27 n. On October 1, 2017, an individual used assault rifles and LCMs to
28 fire over 1,000 rounds on concertgoers at an outdoor music festival

1 in Las Vegas, Nevada, killing 58 people and wounding more than
2 500 others. To date, this is the deadliest mass shooting in U.S.
3 history.

4 o. On October 3, 2018, an individual used an assault rifle in Florence,
5 South Carolina to shoot and kill 2 law enforcement officers. Another
6 6 officers were also shot.

7 p. On October 27, 2018, an individual used an assault rifle with LCMs
8 to kill 11 individuals and injure 6 others at the Tree of Life
9 synagogue in in Pittsburg, Pennsylvania.

10 q. On June 19, 2019, Sacramento Police Officer Tara O'Sullivan was
11 killed by a suspect who shot her with an assault rifle while
12 responding to a domestic disturbance.

13 r. On July 28, 2019, an individual used an AK-47 style rifle with
14 LCMs, which were purchased in Nevada weeks earlier, to kill 3
15 people and injure 12 others at the Gilroy Garlic Festival in Gilroy,
16 California.

17 s. On August 3, 2019, an individual used an assault rifle with LCMs to
18 kill 22 people and injure 26 others at a Walmart in El Paso, Texas.

19 t. Shortly after the El Paso shooting, on August 4, 2019, an individual
20 used an assault pistol with a 100 round drum magazine to kill 9 and
21 injure 27 others in Dayton, Ohio.

22 u. On August 31, 2019, an individual used an assault rifle with LCMs to
23 engage in a shooting spree, including a firefight with law
24 enforcement officers, in Odessa and Midland, Texas.

25 v. On December 10, 2019, two individuals used assault rifles and LCMs
26 to kill 4 people and injure 3 others in Jersey City, New Jersey. One
27 of the dead was Jersey City Police Detective Joseph Seals. The
28 shooters engaged in a lengthy firefight with law enforcement

1 personnel at a kosher grocery market and 3 law enforcement
2 personnel were injured as a result.

3 69. Assault weapons have also been used in other countries to devastating
4 effect. On April 28, 1996, in Port Arthur, Tasmania, an individual used an AR-15
5 rifle to murder 35 people and injure 23 others in a shooting spree that prompted the
6 government to enact restrictions on semiautomatic rifles, including a mandatory
7 buy-back program. And on March 15, 2019, an individual used several firearms,
8 including an AR-15 platform rifle, to murder 51 people and injure 49 others at two
9 mosques in Christchurch, New Zealand. After the Christchurch shootings, New
10 Zealand enacted a ban on semiautomatic firearms and magazines.

11 70. Assault weapons have been used in gun violence against the public and
12 law enforcement, in California, in other states, and abroad. While California's
13 restrictions on assault weapons cannot be expected to stop all gun violence or
14 prevent all mass shootings, it is my opinion that they have contributed positively to
15 the safety of the public and law enforcement personnel.

16 71. It is my opinion that the AWCA enhances public safety by limiting
17 civilian access to prohibited weapons that are unreasonably dangerous for
18 unrestricted civilian use and are often used by those who intend on committing
19 crimes, such as mass shootings.

20 **III. AN INJUNCTION WOULD DISRUPT ENFORCEMENT OF CALIFORNIA'**
21 **FIREARMS LAWS BEYOND THE CHALLENGED LAWS AND WOULD**
22 REQUIRE TIME TO IMPLEMENT

23 72. If enforcement of the challenged provisions of the AWCA is enjoined,
24 it would likely disrupt the State's ability to enforce the existing scheme of firearms
25 laws, beyond the challenged provisions themselves, and could potentially cause
26 irreversible harm.

27 73. As I stated above, there have been numerous mass shootings in
28 California where the shooter had used assault weapons. The AWCA seeks to
reduce the number of these firearms in circulation in the state. If the challenged

1 provisions of the AWCA are enjoined, even if the injunction is later reversed, the
2 state would be left with many more of these firearms than before the injunction.

3 74. An injunction would also disrupt enforcement of other laws.
4 California law requires all lawfully possessed assault weapons acquired before
5 December 31, 2016 to be registered with the California Department of Justice.
6 Penal Code § 30900. The most recent registration period ended on July 1, 2018.
7 Penal Code § 30900(b)(1). Therefore, if a law enforcement officer encounters an
8 assault weapon in the field, and, upon checking the Automated Firearms System,
9 determines that the firearm is not registered, the officer would deem that firearm to
10 be illegally possessed and take appropriate action.

11 75. However, if the challenged provisions of the AWCA are enjoined,
12 residents of California would be permitted to acquire and possess new assault
13 weapons. If a law enforcement officer encounters an unregistered assault weapon
14 in the field, the officer may have difficulty determining whether the firearm is new
15 and outside the existing registration requirement, and therefore potentially legally
16 possessed, or whether it was a firearm that should have been registered previously
17 (for example, a self-manufactured assault weapon built during the registration
18 window or an assault rifle acquired prior to 2014 that is not in the AFS) and the
19 owner had violated the registration laws.

20 76. If the challenged provisions of the AWCA is enjoined, it would also
21 impose administrative burdens on law enforcement agencies at multiple levels and
22 the injunction that would require time to be implemented. Law enforcement
23 agencies statewide have been enforcing the AWCA for decades. If an injunction is
24 issued, all law enforcement agencies in the state would have to be informed of the
25 injunction, the scope of the injunction, and how an injunction might affect their
26 duties despite the AWCA still being on the books.

27 77. If law enforcement agencies are not properly informed of the
28 injunction and the scope of the injunction, officers in the field may inadvertently

1 violate the injunction by enforcing the law as they have been aware of it for the past
2 20 years.

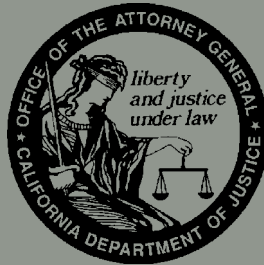
3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on January 22, 2020 at Sacramento, California.

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7 Blake Graham
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EXHIBIT A

California Attorney General



Assault Weapons Identification Guide

as listed or described in Penal Code Sections 12276, 12276.1, and 12276.5

(Includes selected recent legislation)

3rd EDITION - November 2001

**State of California
Office of the Attorney General
Sacramento, California**

The purpose of this guide is to assist peace officers, firearms dealers, and the general public in the identification of assault weapons and to promote the better understanding of some of the more significant recently enacted legislation.

This booklet may be reproduced without permission for noncommercial purposes, downloaded from the Firearms Division website at www.ag.ca.gov/firearms/awguide/, or purchased from the Firearms Division for \$2 per copy at the address below.

**Department of Justice
Firearms Division - AW Guide
P.O. Box 820200
Sacramento, California 94203-0200**

Questions or requests for assistance may be directed to:

**Telephone: (916) 227-3703
Fax: (916) 227-3744**

Training for law enforcement agencies and firearms dealers on the subject of assault weapons or any matter concerning firearms or firearm law enforcement may be scheduled by calling (916) 263-0815.

INTRODUCTION

For the purposes of this guide, assault weapons are divided into three categories. These are: Category 1 - Penal Code section 12276 subdivisions (a), (b), (c) (Roberti Roos Assault Weapons Control Act of 1989); Category 2 - Penal Code section 12276 subdivisions (e) and (f) (*Kasler v. Lockyer*, AK and AR-15 series assault weapons); and Category 3 - Penal Code section 12276.1 (SB 23 - generic characteristic assault weapons). **A combined listing of Category 1 and Category 2 assault weapons can be found on page 82.**

Category 1. The Roberti-Roos Assault Weapons Control Act of 1989

This was California's first assault weapons act. Under this act, any firearm on a list specified in Penal Code section 12276 is considered an assault weapon. Such assault weapons are controlled (i.e., may not be legally purchased, kept for sale, offered for sale, exposed for sale, given, lent, manufactured, distributed, or imported) after December 31, 1991, and were required to be registered as assault weapons with the Department of Justice on or before March 31, 1992. In addition, the Roberti-Roos Assault Weapons Control Act controlled AK and AR-15 series assault weapons (Penal Code section 12276, subd (e) and (f) - see Category 2). These assault weapons are controlled regardless of whether they have Category 3 (Penal Code section 12276.1 - SB 23) characteristics. The only legal option for Category 1 assault weapons that were not registered on or before March 31, 1992, is to surrender them to law enforcement pursuant to Penal Code section 12288.

Category 2. AK and AR-15 Series Weapons

The California Supreme Court upheld the constitutionality of the Roberti-Roos Assault Weapons Control Act of 1989 in *Kasler v. Lockyer*. This decision took effect August 16, 2000. Effective August 16, 2000, firearm models that are variations of the AK or AR-15, with only minor differences from those two models, are assault

weapons under the original Roberti-Roos Assault Weapons Control Act of 1989. AK and AR-15 series weapons were controlled as of August 16, 2000, and must have been registered as assault weapons with the Department of Justice on or before January 23, 2001. The only legal option for Category 2 assault weapons that were not registered on or before January 23, 2001, is to surrender them to law enforcement pursuant to Penal Code section 12288. These assault weapons are controlled regardless of whether they have Category 3 (Penal Code section 12276.1 - SB 23) characteristics.

Category 3. Generic Characteristics

As of January 1, 2000, Senate Bill 23 (Chapter 129, Statutes of 1999) provided that firearms that have characteristics falling under any of the categories listed in Penal Code section 12276.1 are assault weapons. These assault weapons were controlled as of January 1, 2000, and must have been registered as assault weapons with the Department of Justice on or before December 31, 2000. However, a person arrested for possession of an unregistered Category 3 assault weapon on or before December 31, 2001 could have registered it under conditions specified in Penal Code section 12280(c) pursuant to reducing the charge to an infraction. On and after January 1, 2002, the only legal option for Category 3 assault weapons that are not registered is to surrender them to law enforcement pursuant to Penal Code section 12288. An exception for peace officers is addressed on the next page.

Punishment

- Possession – Felony or misdemeanor -- **(Penal Code § 12280(b))**
 Infraction under limited time and conditions -- **(Penal Code § 12280(c))**
- Manufacture, distribution, transportation, importation, sale, and transfer of assault weapons -- Felony.
(Penal Code § 12280(a))

PEACE OFFICER EXEMPTION EFFECTIVE JANUARY 1, 2002

Effective January 1, 2002, a peace officer member of a police department, sheriffs' office, or other law enforcement agency specified in Penal Code section 12280(f) who possesses or receives an assault weapon prior to January 1, 2002, may, with the authorization of his or her agency head, retain and personally possess that firearm provided he or she registers it as an assault weapon with the Department of Justice on or before April 1, 2002. Any such-identified peace officer may also, with the authorization of his or her agency head, purchase or receive an assault weapon on or after January 1, 2002, provided he or she registers it as an assault weapon with the Department of Justice within 90 days of receipt. Agency authorization must be in the form of verifiable written certification from the head of the agency identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. The peace officer must include a copy of this authorization with the assault weapon registration. Assault weapon registration forms may be obtained from the Department of Justice by calling (916) 227-3694.

CONFIRMATION OF REGISTRATION (Law Enforcement Agencies Only)

A law enforcement agency may verify an assault weapon registration by consulting the Automated Firearms System (AFS), which is accessible through the California Law Enforcement Telecommunications System (CLETS). Each AFS assault weapon record includes the date of registration, information identifying the registrant, and information identifying the weapon. Please note that the assault weapon registrant is not required to be in possession of his or her registration documentation.

Contents

CATEGORY 1. Roberti-Roos Assault Weapons Control Act of 1989	1
LISTING	3
RIFLES	5
AK Series (See Category 2, p. 57-61 for additional makes and models)	6
Norinco 86S	7
Colt AR-15 Series (See Category 2, p. 62-67 for additional makes and models)	8
Armalite AR-180	9
Beretta AR-70	10
Bushmaster Assault Rifle	11
Calico M-900	12
CETME Sporter	13
Daewoo K-1, Max 1, AR 110C	14
Daewoo K-2, Max 2, AR 100	15
Fabrique Nationale FAL, LAR, and 308 Match	16
Fabrique Nationale FNC and Sporter	17
Galil	18
HK-91 and HK-93	19
HK-94	20
HK-PSG-1	21
J&R ENG M-68	22
MAC Types	23
MAS 223	24

SAR 48	25
SIG AMT	26
SIG PE-57	27
SG 550 and SG 551	28
SKS with detachable magazine	29
Springfield Armory BM 59	30
Sterling MK-6	31
Steyr* AUG	32
Uzi	33
Valmet M62S	34
Valmet M71S	35
Valmet M78S	36
Weaver Arms Nighthawk	37
PISTOLS	39
Bushmaster Pistol	40
Calico M-950	41
Encom MP-9 and MP-45	42
Intratec TEC-9	43
MAC Types	44
Sites Spectre	45
Sterling MK-7	46
Uzi	47

* Statute spelling of “Steyer” is incorrect.

SHOTGUNS 49
 Franchi Law 12 50
 Franchi SPAS 12 51
 The Streetsweeper Type S/S Inc. 52
 Striker 12 53

CATEGORY 2. AK and AR-15 Series Weapons (Kasler v. Lockyer) 55
 AK and AR-15 Series Weapons 56
 AK Series Weapons 57
 AR-15 Series Weapons 62

CATEGORY 3. Assault Weapons Defined and Identified based on Generic Characteristics (Penal Code section 12276.1) 70

LARGE CAPACITY MAGAZINES 73
 Restrictions and Exemptions (Penal Code section 12020) 74

Recent Firearms-Related Legislation 77
 Handgun Safety Testing (Penal Code section 12125, et seq.) 78
 Firearm Safety Device Requirement (Penal Code section 12087, et seq.) 78

Glossary 79

Combined Listing of Category 1 and Category 2 Assault Weapons 82

Category 1.

Penal Code Section 12276, subdivisions (a)-(c)

Roberti-Roos Assault Weapons Control Act of 1989

CATEGORY 1

The Roberti-Roos Assault Weapons Control Act of 1989

The Roberti-Roos Assault Weapons Control Act of 1989 was California's first assault weapons act. The Act is still in effect and specifically identifies assault weapons by make and model. Assault weapons under this act include those firearms that are marked as specified in Penal Code section 12276, as well as those makes and models specified by the Attorney General pursuant to Penal Code section 12276.5. As of October 2001, the Attorney General has not utilized the add-on provisions of Penal Code section 12276.5 subdivisions (a)-(f).

2 Except as otherwise noted, firearms described in this publication have been physically identified as assault weapons by their markings. Those markings generally, but not always, include both the name or trademark of the manufacturer and the model name or number of the firearm. Each description includes identification markings and an indication of where those markings, if any, are found on the firearm.

Caution must be used in identifying Roberti-Roos assault weapons because of the ease in which their appearance may be altered with attachments or different types of stocks; however, removing a characteristic does not change a firearm's status as a Category 1 assault weapon. A firearm specified in Penal Code section 12276 by make and model is a controlled assault weapon even if it is not identical to its picture in this publication. If in doubt about the identity of a particular firearm, or if identifying marks have been removed or altered, please consult the Department of Justice Firearms Division at (916) 263-4887.

**CHAPTER 2.3. ROBERTI-ROOS ASSAULT WEAP-
ONS CONTROL ACT OF 1989
LISTING**

The ACT provides in part:

12276. As used in this chapter, “assault weapon” shall mean the following designated semiautomatic firearms:

(a) All of the following specified rifles:

- (1) All AK series including, but not limited to, the models identified as follows:
 - (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.
 - (B) Norinco 56, 56S, 84S, and 86S.
 - (C) Poly Technologies AKS and AK47.
 - (D) MAADI AK47 and ARM.
- (2) UZI and Galil.
- (3) Beretta AR-70.
- (4) CETME Sporter.
- (5) Colt AR-15 series.
- (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.
- (7) Fabrique Nationale FAL, LAR, FNC, 308 Match,

and Sporter.

- (8) MAS 223.
- (9) HK-91, HK-93, HK-94, HK-PSG-1.
- (10) The following MAC types:
 - (A) RPB Industries Inc. sM10 and sM11.
 - (B) SWD Incorporated M11.
- (11) SKS with detachable magazine.
- (12) SIG AMT, PE-57, SG 550, and SG 551.
- (13) Springfield Armory BM59 and SAR-48.
- (14) Sterling MK-6.
- (15) Steyer AUG.
- (16) Valmet M62S, M71S, and M78S.
- (17) Armalite AR-180.
- (18) Bushmaster Assault Rifle.
- (19) Calico M-900.
- (20) J&R ENG M-68.
- (21) Weaver Arms Nighthawk.

(b) All of the following specified pistols:

- (1) UZI.
- (2) Encom MP-9 and MP-45.
- (3) The following MAC types:
 - (A) RPB Industries Inc. sM10 and sM11.
 - (B) SWD Incorporated M-11.

4

(C) Advance Armament Inc. M-11.

(D) Military Armament Corp. Ingram M-11.

(4) Intratec TEC-9.

(5) Sites Spectre.

(6) Sterling MK-7.

(7) Calico M-950.

(8) Bushmaster Pistol.

(c) **All of the following specified shotguns:**

(1) Franchi SPAS 12 and LAW 12.

(2) Striker 12.

(3) The Streetsweeper type S/S Inc. SS/12.

(d) **Any firearm declared by the court pursuant to Section 12276.5 to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to Section 12276.5.**

(e) **The term “series” includes all other models that are only variations with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.**

(f) **This section is declaratory of existing law, as amended, and a clarification of the law and the Legislature’s intent, which bans the weapons enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to Section 12276.5, and any other models which are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.**

4

RIFLES

5

5

AK Series

6

12276(a)(1)

AK Series



MANUFACTURER: various

MARKINGS: **AK, AKM, AKS, AK47, AK47S, 56, 56S, 86S. Also See Category 2.**

Comments: The firearm pictured represents the general appearance of the AK series; however, these firearms may be found in various configurations.



MANUFACTURER: Chinese Government

MARKINGS: **86S** located on left side of receiver near the rear. **Also See Category 2.**

Comments: The firearm pictured here is included in the AK series and was originally identified by the Department of Justice as an assault weapon because the internal operation is similar to other AK type firearms.

Norinco 86S

7

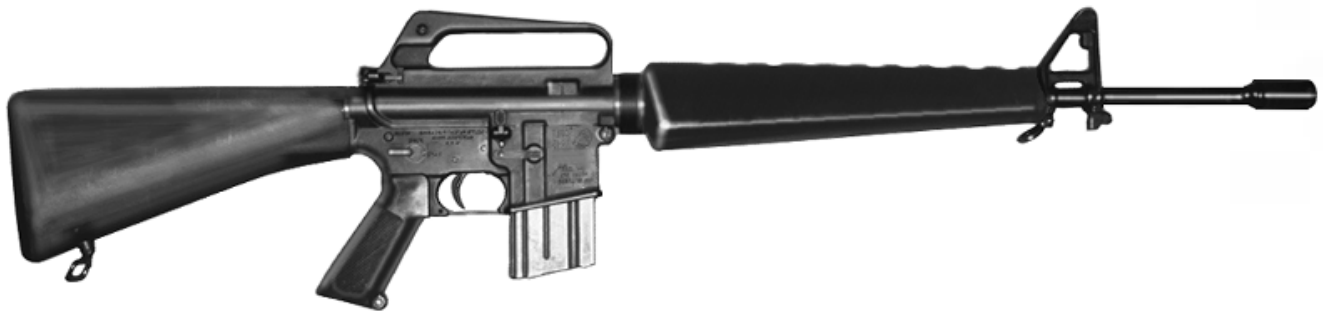
12276(a)(2)

Norinco 86S

Colt AR-15 Series

8

12276(a)(5)



Colt AR-15 Series

MANUFACTURER: Colt

MARKINGS: **AR-15. Also See Category 2.**

Comments: The firearm pictured represents one general appearance of the Colt AR-15. These firearms may be found in various configurations.



MANUFACTURER: various manufacturers

MARKINGS: **Armalite AR-180** located on the right side of the receiver.

Comments: Various other markings, including the name of manufacturer, are found on the firearm, but they are not material to identifying it as an assault weapon.

Armalite AR-180

Armalite AR-180

9

12276(a)(17)

Beretta AR-70

10

12276(a)(3)



Beretta AR-70

MANUFACTURER: Pietro Beretta SPA

MARKINGS: **AR 70** on the left side of the receiver near the top.

Comments: May be marked Mod 70S or Mod 70 Sport. However, only the mark **AR 70** is essential to identify the firearm as an assault weapon.

10

Bushmaster Assault Rifle



MANUFACTURER: Bushmaster Firearms

MARKINGS: **Bushmaster Assault Rifle** located on the left side of the receiver above the magazine.

Comments: none

Bushmaster Assault Rifle

11

12276(a)(18)

11

Calico M-900

12

12276(a)(19)

Calico M-900



MANUFACTURER: Calico Light Weapons Systems

MARKINGS: **M-900** usually on the left side of the receiver.

Comments: An unconventional spiral magazine may be located on the top of the receiver as pictured here.

12



MANUFACTURER: Made in Spain
MARKINGS: **CETME “Sport”** usually found on the left side of the magazine well.
Comments: none

CETME Sporter

13

12276(a)(4)

CETME Sporter

13

Daewoo K-1, Max 1, AR 110C

14

12276(a)(6)



MANUFACTURER: Daewoo Precision Industries Ltd.

MARKINGS: **K1**, **Max1**, or **AR110C** usually located on the left side of the receiver on the magazine well.

Comments: Markings may include **A1** and other designations, but these additional markings are not material to identifying the firearm as an assault weapon.

Daewoo K-1, Max 1, AR 110C



MANUFACTURER: Daewoo Precision Industries Ltd.

MARKINGS: **K2, Max II** or **AR100** usually located on the left side of the receiver on the magazine well.

Comments: none

Daewoo K-2, Max 2, AR 100

Daewoo K-2, Max 2, AR 100

15

12276(a)(2)

Fabrique Nationale FAL, LAR, and 308 Match 16

12276(a)(7)

Fabrique Nationale FAL, LAR, and 308 Match



MANUFACTURER: FN Herstal SA (Fabrique Nationale Herstal)

MARKINGS: **FAL**, **LAR**, or **.308 Match** usually located on the left side of the receiver.

Comments: none



MANUFACTURER: FN Herstal SA (Fabrique Nationale Herstal)

MARKINGS: **FNC** or **Sporter** usually located near the top on the left side of the receiver.

Comments: none

Fabrique Nationale FNC and Sporter

17

12276(a)(7)

Galil

18

12276(a)(2)



MANUFACTURER: IMI (Israel Military Industries)

MARKINGS: **GALIL** usually found on the left side of the receiver above the pistol grip.

Comments: Various other model markings located on the firearm are not material to identifying it as an assault weapon.

Galil



MANUFACTURER: HK (Heckler and Koch GmbH)

MARKINGS: **HK91** or **HK93** usually found on the left side of the receiver on the magazine well.

Comments: The **HK91** and **HK93** appear substantially the same but are in different calibers.

HK-91 and HK-93

19

12276(a)(9)

HK-91 and HK-93

19

HK-94

20

12276(a)(9)

HK-94

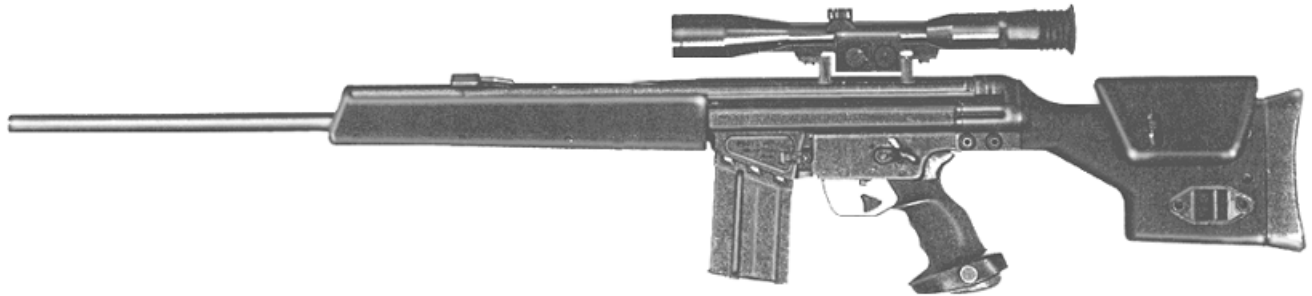


MANUFACTURER: HK (Heckler and Koch GmbH)

MARKINGS: **HK94** usually found on the top of the receiver.

Comments: none

20



MANUFACTURER: HK (Heckler and Koch GmbH)

MARKINGS: The designation **PSG-1** is located on the left side of the receiver on the magazine well.

Comments: none

HK-PSG-1

21

12276(a)(9)

HK-PSG-1

21

J&R ENG M-68

22

12276(a)(20)



J&R ENG M-68

22

MANUFACTURER: various manufacturers

MARKINGS: **J&R ENG. M68** located on the back end of the receiver above the stock.

Comments: none



MANUFACTURER: RPB Industries Inc. or SWD Inc.

MARKINGS: **RPB Industries Inc. sM10** or **sM11** are usually marked on the right side of the lower receiver. **SWD Inc. M-11** is usually marked on the right side of the lower receiver.

Comments: The appearance of this type of assault weapon may vary because of the type of stock or barrel attached, but those differences are not material to identifying the firearms as an assault weapon.

MAC Types

23

12276(a)(10)

MAC Types

MAS 223

24

12276(a)(8)



MANUFACTURER: MAS (Manufacture Nationale d'Armes de St Etienne)

MARKINGS: The designation **MAS .223** appears on the right side of the receiver on the magazine well.

Comments: none

MAS 223

24



MANUFACTURER: Springfield Armory

MARKINGS: **S.A.R.- 48** is found on the left side of the receiver above the pistol grip.

Comments: The bipod, which folds up under the barrel, is shown here extended.

SAR 48

25

12276(a)(13)

SAR 48

25

SIG AMT

26

12276(a)(12)

SIG AMT



MANUFACTURER: SIG (Swiss Industrial Company)

MARKINGS: **AMT** usually found on top of the receiver near the barrel.

Comments: none



MANUFACTURER: SIG (Swiss Industrial Company)

MARKINGS: **PE-57**

Comments: none

SIG PE-57

SIG PE-57

27

12276(a)(12)

SG 550 and SG 551

28

12276(a)(12)

SG 550 and SG 551



MANUFACTURER: SIG (Swiss Industrial Company)

MARKINGS: **SG550** or **SG551** usually found on the left side of the receiver above the magazine well.

Comments: These firearms have a similar appearance; however, the **550** is longer than the **551** model which is pictured here.



MANUFACTURER: Various

MARKINGS: **SKS** usually found on the left side of the receiver.

Comments: The SKS rifle was originally manufactured with a fixed 10 round magazine. However, modified versions accept detachable magazines and are assault weapons.

SKS with detachable magazine

SKS with detachable magazine

29

12276(a)(11)

Springfield Armory BM 59

30

12276(a)(13)



MANUFACTURER: Springfield Armory

MARKINGS: **BM59** found in various locations on the firearm.

Comments: Shown here without the detachable magazine. The marking "Beretta" may also be found but is not material to identifying it as an assault weapon.

Springfield Armory BM 59



MANUFACTURER: Sterling Armament Co Ltd. (England)

MARKINGS: **MK6** located on top of the magazine well.

Comments: The magazine extends horizontally from the left side of the receiver.

Sterling MK-6

31

12276(a)(14)

Sterling MK-6

Steyr* AUG

32

12276(a)(15)

Steyr* AUG



MANUFACTURER: Steyr*-Manlicher AG (member of the Steyr*-Daimler-Puch AG group)

MARKINGS: **AUG** usually molded in the right side of the polymer stock and followed by *ISA*.

Comments: This firearm is in a bullpup configuration and is shown here with a muzzle cap and without the detachable magazine.

*Spelling of "Steyer" in the statute is a typographical error.

32



MANUFACTURER: IMI (Israel Military Industries)

MARKINGS: **UZI** usually located on the left side of the receiver near the rear.

Comments: Various other model markings located on the firearm are not material to identifying it as an assault weapon. The UZI is shown here with stock collapsed.

Uzi

33

12276(a)(2)

Uzi

Valmet M62S

34

12276(a)(16)

Valmet M62S



MANUFACTURER: Valmet (Finland)

MARKINGS: **M62/S** usually located on right side of the receiver to the rear.

Comments: none

34



MANUFACTURER: Valmet (Finland)

MARKINGS: **M71/S** usually located on the right side of the receiver.

Comments: Shown here without the detachable magazine.

Valmet M71S

35

12276(a)(16)

Valmet M71S

Valmet M78S

36

12276(a)(16)

Valmet M78S

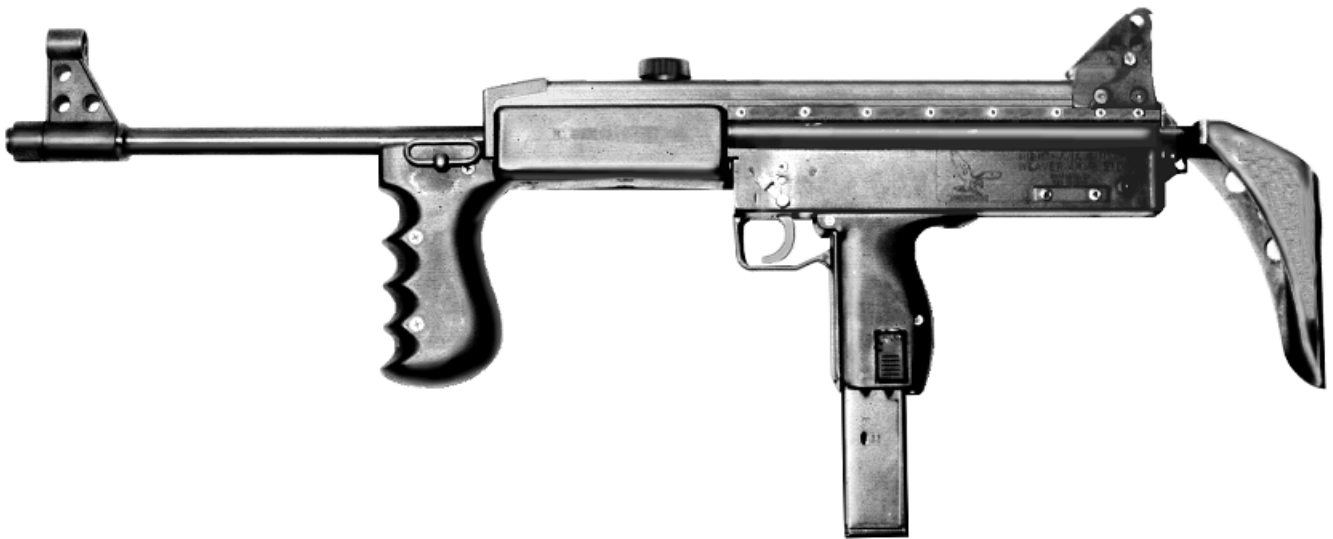


MANUFACTURER: Valmet (Finland)

MARKINGS: **M78S**

Comments: Shown here without the detachable magazine.

Weaver Arms Nighthawk



MANUFACTURER: Weaver Arms Ltd.

MARKINGS: **Nighthawk** located on the left side of the receiver.

Comments: none

Weaver Arms Nighthawk

37

12276(a)(21)

38

38

PISTOLS

Bushmaster Pistol

40

12276(b)(8)

Bushmaster Pistol



MANUFACTURER: Bushmaster Firearms

MARKINGS: **Bushmaster Pistol** usually appears on the left side of the receiver.

Comments: This firearm is in bullpup configuration.

40



MANUFACTURER: Calico Light Weapons Systems

MARKINGS: **M-950** is usually located on the left side of the receiver, below the magazine.

Comments: An unconventional spiral magazine may be located on the top of the receiver as pictured here.

Calico M-950

41

12276(b)(7)

Calico M-950

41

Encom MP-9 and MP-45

42

12276(b)(2)



MANUFACTURER: Encom America

MARKINGS: **MP9** (or **MP45**) usually found on the left rear of the receiver.

Comments: The MP9 and MP45 appear substantially the same but are in different calibers.

Encom MP-9 and MP-45



MANUFACTURER: Intratec

MARKINGS: **TEC-9** is usually molded in the plastic on the left side of the magazine well.

Comments: Shown here without the detachable magazine.

Intratec TEC-9

43

12276(b)(4)

Intratec Tec-9

43

MAC Types

44

12276(b)(3)



MANUFACTURER: various manufacturers

MARKINGS: **RPB sM10** or **sM11**, **SWD Inc. M11**, **Advanced Armament Corp. M11**, and **Military Armament Corp. M-11**. These weapons are usually found with the appropriate marks on the right side of the receiver above the pistol grip.

Comments: none

MAC Types

44



MANUFACTURER: Sites SpA (Italy)

MARKINGS: **Spectre** is usually located on the right side of the receiver.

Comments: Shown here without the detachable magazine.

Sites Spectre

45

12276(b)(5)

Sites Spectre

45

Sterling MK-7

46

12276(b)(6)



MANUFACTURER: Sterling Armament Co. Ltd. (England)

MARKINGS: **MK7** usually appears on the top of the magazine well.

Comments: The magazine well extends horizontally from the left side of the receiver.

Sterling MK-7

46



MANUFACTURER: IMI (Israel Military Industries)

MARKINGS: **UZI** usually located on the left side of the receiver below the rear sight.

Comments: none

Uzi

47

12276(b)(1)

Uzi

48

48

SHOTGUNS

Franchi Law 12

50

12276(c)(1)



MANUFACTURER: Luigi Franchi SPA

MARKINGS: **LAW 12** usually appears on the right side of the receiver above the trigger.

Comments: none

Franchi Law 12

50



MANUFACTURER: Luigi Franchi SPA

MARKINGS: **SPAS 12** usually appears on the right side of the receiver above the trigger.

Comments: This shotgun fires in semiautomatic or pump-action modes.

Franchi SPAS 12

51

12276(c)(1)

Franchi SPAS 12

51

The Streetsweeper Type S/S Inc.

52

12276(c)(3)



The Streetsweeper Type S/S Inc.

MANUFACTURER: S/S Inc. (may have the Cobray insignia).

MARKINGS: **SS / 12** is usually located on the front of the receiver above the winding key.

Comments: none

52



MANUFACTURER: various manufacturers

MARKINGS: **Striker-12** usually appears on the left side of the receiver where the barrel affixes to the receiver.

Comments: Shown here with a short barrel and without a stock attached.

Striker 12

53

12276(c)(2)

Striker 12

54

54

55

Category 2.
Penal Code Section 12276, subdivision (e)
AK and AR-15
Series Weapons
(Kasler v. Lockyer)

55

AK and AR-15 Series Weapons ⁵⁶

CATEGORY 2

AK and AR-15 Series Weapons (Kasler v. Lockyer)

This California Supreme Court decision took effect on August 16, 2000. Under this decision, any firearm of minor variation of the AK or AR-15 type (i.e., series weapon), regardless of the manufacturer, is a Category 2 (*Kasler v. Lockyer*) assault weapon under the original Roberti-Roos Assault Weapons Control Act of 1989.

All AK and AR-15 series weapons had to be possessed before August 16, 2000 and must have been registered on or before January 23, 2001. The Department of Justice is required to identify these series weapons and includes in this publication a listing of identified AK and AR-15 series weapons.

It is important to note that removal of a firearm's characteristics does not affect its status as a Category 2 assault weapon. A Category 2 assault weapon is still an assault weapon even if it has no Category 3 (SB 23 - generic characteristics) features.

Category 2 assault weapons may be of any caliber, including .22 caliber rimfire.

AK Series Weapons

The following pages show markings and illustrations of AK series weapons subsequently identified as Roberti-Roos assault weapons as a result of the California Supreme Court's ruling in *Kasler v. Lockyer* on August 16, 2000. Listed weapons were required to be purchased on or before August 16, 2000 and registered as assault weapons on or before January 23, 2001, with the exception of original Category 1 (Roberti-Roos) assault weapons, which were required to be registered on or before March 31, 1992. Category 1 weapon models on the list are noted with asterisks.

The markings on each of these firearms can usually be found on the receiver. In some cases, the markings appear on the trundle (between the barrel and the receiver).

Caliber has no bearing on a weapon's status as a series weapon and should be disregarded when making an identification. For example, a ROMAK AK-47 is a series weapon whether it is in .223 cal, .308 cal, or 7.62 X 39 mm.

The makes and models provided in this guide include those which the Department of Justice was able to locate prior to printing this booklet. It is probable that some series weapons unknown to the Department of Justice are in circulation. If you encounter a suspected series weapon that is not specifically identified in this booklet, please contact the Firearms Division at (916) 263-4887 for identification of that weapon. Additional assault weapon models as they are identified will be included in future versions of this guide and will be posted on our website at www.ag.ca.gov/firearms/awguide/.

AK Series Weapons

57

Penal Code § 12276(e)

AK Series Weapons

58

AK Series Weapons

Penal Code § 12276(e)

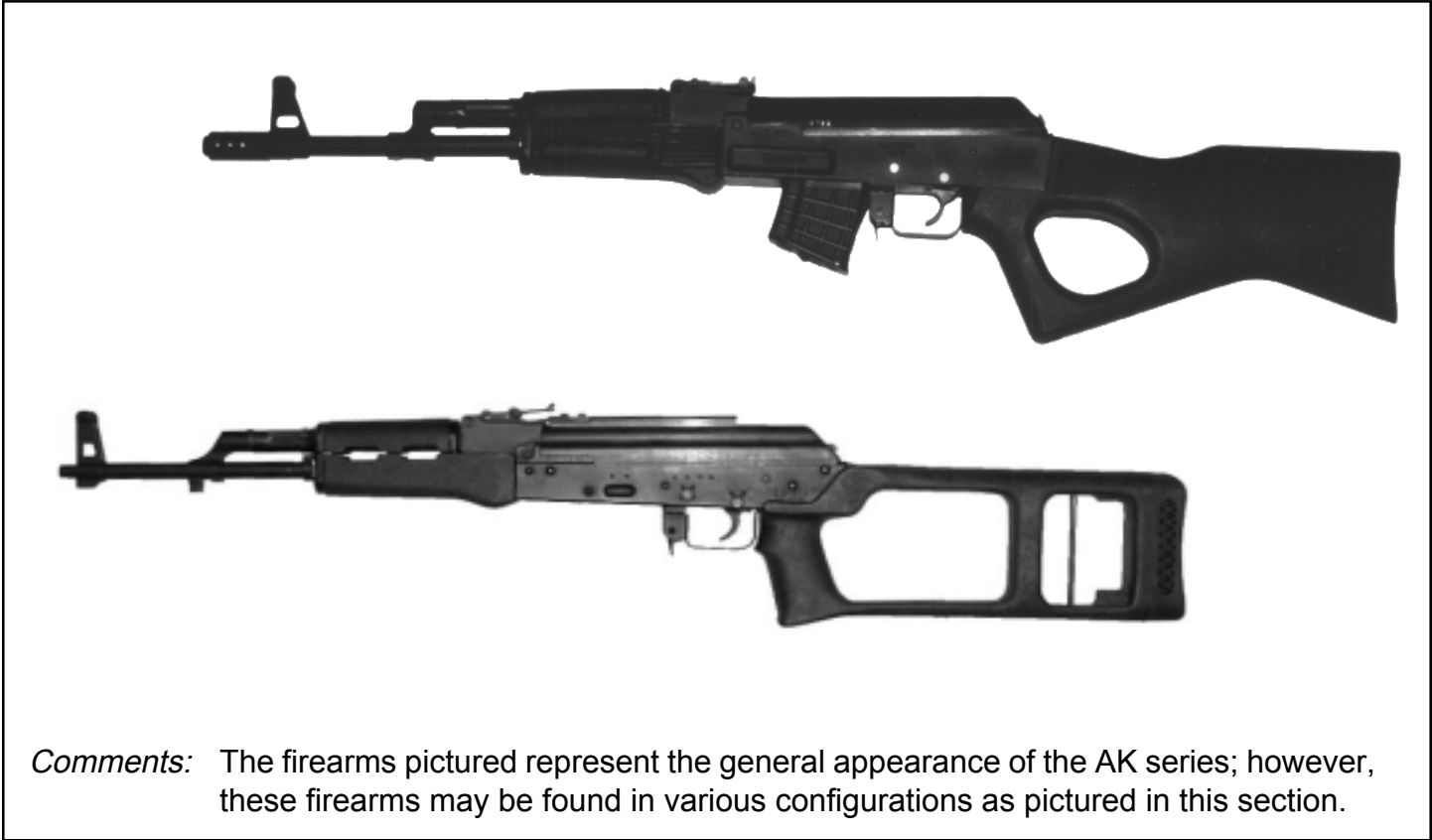
AK Series markings include, but are not limited to, the following:

<u>American Arms</u> AK-Y 39 AK-F 39 AK-C 47 AK-F 47	<u>Kalashnikov USA</u> Hunter Rifle /Saiga	<u>Mitchell Arms, Inc.</u> AK-47 (all) AK-47 Cal. 308 (all) M-76 RPK M-90	<u>Ohio Ordnance Works (o.o.w.)</u> AK-74 ROMAK 991
<u>Arsenal</u> SLR (all) SLG (all)	<u>MAADI CO</u> *AK47 *ARM MISR (all) MISTR (all)	<u>Norinco</u> AK-47 (all) Hunter Rifle NHM 90, 90-2, 91 Sport RPK Rifle *56 *56 S 81 S (all) *84 S 86 (all) *86 S MAK 90	<u>Poly Technologies</u> *AKS *AK47
<u>B-West</u> AK-47 (all)	<u>Made in China</u> *AK *AKM *AKS *AK47 *56 *56S *84S *86S		<u>Valmet</u> Hunter Rifle 76 S
<u>Hesse Arms</u> Model 47 (all) Wieger STG 940 Rifle			<u>WUM</u> WUM (all)
<u>Inter Ordnance - Monroe, NC</u> AK-47 (all) RPK M-97	<u>MARS</u> Pistol		

* These weapons were required to be registered on or before March 31, 1992.

59

AK Series Weapons (Continued)



Comments: The firearms pictured represent the general appearance of the AK series; however, these firearms may be found in various configurations as pictured in this section.

AK Series Weapons (Continued)

AK Series Weapons (Continued)

60

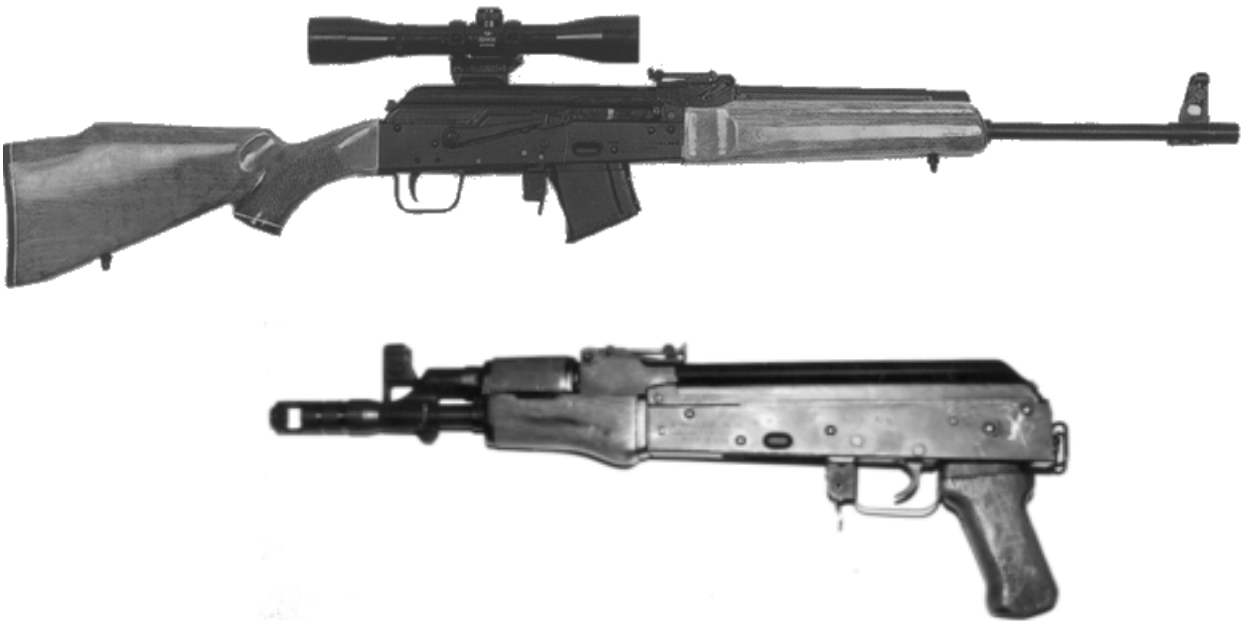
Penal Code § 12276(e)

AK Series Weapons (Continued)



Comments: The firearms pictured represent the general appearance of the AK series; however, these firearms may be found in various configurations as pictured in this section.

60



Comments: The firearms pictured represent the general appearance of the AK series; however, these firearms may be found in various configurations as pictured in this section.

AK Series Weapons (Continued)

AK Series Weapons (Continued)

Penal Code § 12276(e)

AR-15 Series Weapons

62

AR-15 Series Weapons

The following pages show markings and illustrations of AR-15 series weapons. The Colt AR-15 was the only AR-15 series weapon to be originally identified as an assault weapon under the Roberti-Roos Assault Weapons Control Act of 1989, and was required to be registered on or before March 31, 1992. With the exception of the Colt AR-15, all of the listed AR-15 series weapons were subsequently identified by the Department of Justice as Category 2 assault weapons as a result of the *Kasler v. Lockyer* California Supreme Court ruling effective August 16, 2000. Category 2 (*Kasler v. Lockyer*) weapons were required to be purchased on or before August 16, 2000 and registered as assault weapons on or before January 23, 2001. The markings on these firearms usually appear on the left side of the lower receiver.

Caliber has no bearing on a weapon's status as a series weapon and should be disregarded when making an identification. For example, upper receiver conversion kits are available to convert almost any AR series weapon into .45 ACP, .40 S&W, 7.62 X 39 mm, 9 mm, 10 mm, or .223 caliber.

The makes and models provided in this guide include those which the Department of Justice was able to locate prior to printing this booklet. It is probable that some series weapons in circulation are unknown to the Department of Justice. If you encounter a suspected series weapon that is not specifically named in this booklet, please contact the Firearms Division at (916) 263-4887 for identification of that weapon. Additional assault weapon models as they are identified will be included in future versions of this guide and will be posted on the Firearms Division website at www.ag.ca.gov/firearms/awguide/.

AR-15 Series markings include, but are not limited to, the following:

American Spirit
ASA Model

Armalite
AR 10 (all)
M15 (all)
Golden Eagle

Bushmaster
XM15 (all)

Colt
*AR-15 (all)
Sporter (all)
Match Target (all)
Law Enforcement (6920)

Dalphon
B.F.D.

DPMS
Panther (all)

Eagle Arms
M15 (all)
EA-15 A2 H-BAR
EA-15 E1

Frankford Arsenal
AR-15 (all)

Hesse Arms
HAR 15A2 (all)

Knights
SR-15 (all)
SR-25 (all)
RAS (all)

Les Baer
Ultimate AR (all)

Olympic Arms
AR-15
Car-97
PCR (all)

Ordnance, Inc.
AR-15

Palmetto
SGA (all)

Professional Ordnance, Inc.
Carbon 15 Rifle
Carbon 15 Pistol

PWA
All Models

Rock River Arms, Inc.
Standard A-2
Car A2
Standard A-4 Flattop
Car A4 Flattop
NM A2 - DCM Legal
LE Tactical Carbine

Wilson Combat
AR-15

* These weapons were required to be registered on or before March 31, 1992.

AR-15 Series Weapons

AR-15 Series Weapons (Continued)

64

Penal Code § 12276(e)



AR-15 Series Weapons (Continued)

64

Comments: The firearm pictured represents one general appearance of the AR-15 series. However, these firearms may be found in various configurations.



Comments: The firearm pictured represents one general appearance of the AR-15 series. However, these firearms may be found in various configurations.

AR-15 Series Weapons (Continued)

AR-15 Series Weapons (Continued)

Penal Code § 12276(e)

AR-15 Series Weapons (Continued)

66

Penal Code § 12276(e)



Comments: The firearm pictured represents one general appearance of the AR-15 series. However, these firearms may be found in various configurations.

AR-15 Series Weapons (Continued)

66



Comments: The firearm pictured represents one general appearance of the AR-15 series. However, these firearms may be found in various configurations.

AR-15 Series Weapons (Continued)

AR-15 Series Weapons (Continued)

Penal Code § 12276(e)

68

69

69

Category 3.
Penal Code Section 12276.1
Assault Weapons Defined and
Identified based on Generic
Characteristics

69

CATEGORY 3

Assault Weapon Generic Characteristics (Penal Code Section 12276.1)

The Roberti-Roos Assault Weapons Control Act of 1989 (Penal Code section 12276) regulates specific assault weapons by makes and models. Since its passage in 1989, many manufacturers created new firearm models that have very similar characteristics to controlled assault weapons. In response, the Legislature passed and the governor signed SB 23 (Chapter 129, Statutes of 1999), which created Penal Code section 12276.1 to define assault weapons by generic characteristics. It is important to understand that the Roberti-Roos Assault Weapons Control Act of 1989 (Penal Code section 12276), which lists assault weapons by make and model, is still the law and those weapons were required to be registered on or before March 31, 1992 (with the exception of certain AK series and AR-15 series weapons, which were required to be registered on or before January 23, 2001). (Penal Code §§ 12276.1)

Penal Code section 12276.1 complements rather than supersedes the Roberti-Roos Assault Weapons Control Act of 1989. A firearm that is of a type specified in Penal Code Section 12276.1 that has any of the specified characteristics listed for that type of firearm is considered a Category 3 (generic characteristics) assault weapon. Under Penal Code section 12276.1, a firearm's make, model, or markings have no bearing on whether it is an assault weapon. A firearm's status as an assault weapon under this category is determined solely by its characteristics. There are three general types of firearms that are controlled by the generic characteristics assault weapons laws. These types include semiautomatic centerfire rifles, semiautomatic pistols, and semiautomatic or revolving cylinder shotguns.

Generic Characteristics Defining Assault Weapons:

12276.1 (a) Notwithstanding Penal Code section 12276, “assault weapon” shall also mean the following:

Rifles

- (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:
 - (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.
 - (B) A thumbhole stock.
 - (C) A folding or telescoping stock.
 - (D) A grenade launcher or flare launcher.
 - (E) A flash suppressor.
 - (F) A forward pistol grip.
- (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.
- (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

Note: Bayonets and bayonet lugs are not assault weapon characteristics under California law.

Pistols

- (4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:
 - (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
 - (B) A second handgrip.
 - (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.
 - (D) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

Shotguns

- (6) A semiautomatic shotgun that has both of the following:
 - (A) A folding or telescoping stock.
 - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- (7) A semiautomatic shotgun that has the ability to accept a detachable magazine.
- (8) Any shotgun with a revolving cylinder.

LARGE CAPACITY MAGAZINES

Large Capacity Magazine Restrictions and Exemptions (Penal Code Section 12020)

A large capacity magazine is defined as “any ammunition feeding device with a capacity to accept more than 10 rounds but shall not be construed to include a feeding device that is permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device (or, effective January 1, 2002, a tubular magazine contained in a lever-action firearm).” It is important to understand that a large capacity feeding device may be detachable or fixed, and includes any tube ammunition feeding device (other than .22 caliber or, effective January 1, 2002, a tubular magazine contained in a lever-action firearm) that can accommodate more than 10 rounds. A large capacity magazine also includes linked ammunition with more than 10 rounds linked together or an ammunition belt with the capacity to accept more than 10 rounds.

Possession of large capacity magazines, whether by peace officers or private citizens, **is not** controlled.

The manufacturing, importation into the state, offering for sale, keeping for sale, exposing for sale, giving, and lending of a large capacity magazine is controlled. No person may participate in these activities without a permit issued by the Department of Justice. For exceptions, see Penal Code §§12020(b)(19)-(32).

Specified law enforcement agencies and their employees are exempt from these restrictions. These agencies and employees include any federal, state, county, city and county, or city, law enforcement agencies and employees of those agencies while discharging their official duties, whether on-duty or off-duty, where the use is authorized by the agency within the scope of their duties. This exemption includes the sale of, giving of, lending of, importation into the state, or purchase of any large capacity magazine.

75 Peace officers (distinct from law enforcement agencies) who are authorized to carry firearms in the course and scope of their duties are exempted. This exemption includes the sale to, lending to, purchase of, purchase by, receipt of, or importation into the state of large capacity magazines. For record keeping purposes, a peace officer who purchases large capacity magazines from a firearms dealer is required to provide that firearms dealer with a copy of his or her peace officer photo identification. In the event the magazine is stamped "RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY," federal regulations require the law enforcement officer to provide the firearms dealer with: 1) A written statement from the officer, under penalty of perjury, that the magazine is being purchased for use in performing official duties and that it is not being acquired for personal use or for purposes of transfer or resale; and 2) a written statement from a supervisor of the purchasing officer, stating under penalty of perjury that the officer is acquiring the magazine for use in official duties, that the magazine is suitable for use in performing official duties, and that the magazine is not being acquired for personal use or for purposes of transfer or resale.

Other allowances are made for firearms dealers; the loaning of large capacity magazines under specified conditions; the importation into the state of previously owned magazines by residents who lawfully possessed those magazines prior to January 1, 2000 and who lawfully took them out of the state; the repair of magazines; importation of large capacity magazine by permitted individuals; the armored car industry; manufacturing large capacity magazines for specified purposes; and prop masters (Penal Code §§ 12020(b)(21)-(32)).

Punishment – Felony or Misdemeanor. (Penal Code § 12020(a)(2))

Law Enforcement Exemption – Agencies and sworn peace officers. (Penal Code §§ 12020(b)(19), (20))

76

76

Selected Recent Firearms-Related Legislation

Peace Officer Registration and Acquisition of Assault Weapons (Penal Code Section 12280(g))

Effective January 1, 2002, a peace officer member of the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency, who possesses or receives an assault weapon prior to January 1, 2002, may, with the authorization of his or her agency, retain and personally possess that firearm provided he or she registers it as an assault weapon with the Department of Justice on or before April 1, 2002. Such a peace officer may also, with the authorization of his or her agency, personally purchase or receive an assault weapon on or after January 1, 2002, provided he or she registers it as an assault weapon with the Department of Justice within 90 days after possession or receipt. Assault weapon registration forms are available from the Department of Justice and may be obtained by calling (916) 227-3694.

Acceptable agency authorization is defined as verifiable written certification from the head of the agency identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. The peace officer must include a copy of this authorization with the assault weapon registration.

Large-Capacity Magazines (Penal Code Section 12020)

Effective January 1, 2002, tubular magazines contained in lever-action firearms are excluded from the definition of "large capacity magazine." This change removes statutory prohibitions against manufacturing, selling, giving, lending, etc., many "old west" style lever-action rifles.

Effective January 1, 2002, technical amendments to Penal Code section 12020 expressly allow properly licensed persons to manufacture large-capacity magazines. Prop masters may also purchase and loan large-capacity magazines.

Criminal Storage of a Firearm (Penal Code Sections 12035 & 12036)

Effective January 1, 2002, the age under which persons are considered "children" for purposes of criminal storage of a firearm is increased from 16 years to 18 years. Any person guilty of criminal storage of a firearm is guilty of an additional misdemeanor and a fine of up to \$5,000 if the child took the firearm to a school or school-sponsored activity.

Glossary

Automatic firearm - An automatic firearm continues to self-load and fire as long as the trigger is held back and a supply of ammunition is present. In an automatic firearm, one pull on the trigger may result in multiple shots being fired.

Caliber - The caliber of a firearm is the approximate diameter of the bore measured before rifling (or the diameter of a circle formed by the tops of the rifling lands).

Flash suppressor - Any device designed, intended, or that functions to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.

Forearm - The forward portion of a two-part stock which is usually under the barrel.

Magazine - Any ammunition feeding device.

Magazine, fixed - A magazine which remains affixed to the firearm during loading. Frequently a fixed magazine is charged (loaded) from a clip (en bloc or stripper) of cartridges inserted through the open breech into the magazine.

Magazine, detachable - An ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.

Pistol Grip, conspicuously protruding - A grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.

Pistol Grip, forward - A grip that allows for a pistol style grasp forward of the trigger.

Receiver - The basic unit of a firearm which houses the firing and breech mechanism and to which the barrel and stock are assembled. The receiver may consist of two sections. In some autoloading pistols and other firearms, the terms receiver and frame are used interchangeably.

Receiver, lower - In a receiver composed of two parts, the lower receiver usually contains the trigger and firing mechanism.

Receiver, upper - In a receiver composed of two parts, the upper receiver usually contains the barrel and breech mechanism.

Semiautomatic firearm - This refers to a firearm which is self-loading but not self firing. A single pull on the trigger results in a single shot being fired.

Stock - The part of a rifle, carbine or shotgun to which the barrel assembly is attached and which provides a means for holding the weapon to the shoulder.

Stock, collapsing - A stock which is shortened by allowing one section to telescope into another.

Stock, folding - A stock which is hinged to the receiver to allow the stock to be folded next to the receiver to reduce the overall length of the firearm.

Stock, thumbhole - A stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.

82

Combined Listing of Category 1 and Category 2 Assault Weapons

Italicized models are Category 1 and were required to be registered on or before March 31, 1992. Non-italicized models are Category 2 and were required to be registered with the Department of Justice on or before January 23, 2001. Category 3 assault weapons are not included in this listing.

RiflesAmerican Arms

AK-C 47

AK-F 39

AK-F 47

AK-Y 39

American Spirit

ASA Model

Armalite

AR 10 (all)

AR-180

Golden Eagle

M15 (all)

Arsenal

SLG (all)

SLR (all)

B-West

AK-47 (all)

Beretta

AR-70

Bushmaster

Assault Rifle

XM15 (all)

Calico

M-900

Colt

AR-15 (all)

Law Enforcement (6920)

Match Target (all)

Sporter (all)

Daewoo

AR100, AR110C

K-1, K-2

Max 1, Max 2

Dalphon

B.F.D.

DPMS

Panther (all)

Eagle Arms

EA-15 A2 H-BAR

EA-15 E1

M15 (all)

Fabrique Nationale

308 Match, Sporter

FAL, LAR, FNC

Frankford Arsenal

AR-15 (all)

Hesse Arms

HAR 15A2 (all)

Model 47 (all)

Wieger STG 940 Rifle

HK

91, 94, PSG-1

93

IMI

Galil

Uzi

Inter Ordnance - Monroe, NC

AK-47 (all)

M-97

RPK

J&R ENG

M-68

Kalashnikov USA

Hunter Rifle / Saiga

Knights

RAS (all)

SR-15 (all)

SR-25 (all)

Les Baer

Ultimate AR (all)

This listing does not include firearms whose characteristics alone make them assault weapons (Category 3)

MAADI CO

AK 47
ARM
MISR (all)
MISTR (all)

Made in China

56
56S
84S
86S
AK
AK47
AKM
AKS

Made in Spain

CETME Sporter

MAS

223

Mitchell Arms, Inc.

AK-47 (all)
AK-47 Cal .308 (all)
M-76
M-90
RPK

Norinco

56
56 S
81 S (all)
84 S
86 (all)
86 S
AK-47 (all)
Hunter Rifle
MAK 90
NHM 90, 90-2, 91 Sport
RPK Rifle
SKS w/ detachable magazine

Ohio Ordnance Works (o.o.w.)

AK-74
ROMAK 991

Olympic Arms

AR-15
Car-97
PCR (all)

Ordnance, Inc.

AR-15

Palmetto

SGA (all)

Poly technologies

AK47
AKS

Professional Ordnance, Inc.

Carbon 15 Rifle

PWA

All Models

Rock River Arms, Inc.

Car A2
Car A4 Flattop
LE Tactical Carbine
NM A2 - DCM Legal
Standard A-2
Standard A-4 Flattop

RPB Industries, Inc.

sM10, sM11

SIG

AMT, PE-57
SG 550, SG 551

Springfield Armory

BM59, SAR-48

Sterling

MK-6

Steyr

AUG

SWD Incorporated

M11

Valmet

76 S
Hunter Rifle
M62S, M71S, M78S

Weaver Arms

Nighthawk

Wilson Combat

AR-15

WUM

WUM (all)

This listing does not include firearms whose characteristics alone make them assault weapons (Category 3)

84

Pistols

Advance Armament Inc.
M11

Bushmaster
Pistol

Calico
M-950

Encom
MP-9, MP-45

IMI
UZI

Intratec
TEC-9

MARS
Pistol

Military Armament Corp.
M-11

Professional Ordnance, Inc.
Carbon 15 Pistol

RPB Industries Inc.
sM10, sM11

Sites
Spectre

Sterling
MK-7

SWD Incorporated
M11

Shotguns

Cobray
Streetsweeper, S/S Inc., SS/12
Striker 12

Franchi
SPAS 12, LAW 12

84

This listing does not include firearms whose characteristics alone make them assault weapons (Category 3)

This listing includes models of Category 1 (Roberti-Roos) and Category 2 (AK & AR-15 series) assault weapons that have been brought to our attention and examined. If you have a suspected Category 2 assault weapon that does not appear on this list, please contact the Department of Justice at (916) 263-4887 for an identification of that firearm. This listing does not include Category 3 (Penal Code section 12276.1) assault weapons, which are defined by their characteristics, not by make/model. Category 2 assault weapons must have been registered with the California Department of Justice on or before January 23, 2001. Category 3 assault weapons must have been registered with the Department of Justice on or before December 31, 2000.

EXHIBIT B

Barclays Official California Code of Regulations CurrentnessTitle 11. LawDivision 5. Firearms Regulations
Chapter 39. Assault Weapons and Large-Capacity Magazines Article 2. Registration Requirement, What
Qualifies for Registration, and Definitions

11 CCR § 5471

§ 5471. Registration of Assault Weapons Pursuant to Penal Code Section
30900(b)(1); Explanation of Terms Related to Assault Weapon Designation.

For purposes of [Penal Code section 30900](#) and Articles 2 and 3 of this Chapter the following definitions shall apply:

- (a) “Ability to accept a detachable magazine” means with respect to a semiautomatic shotgun, it does not have a fixed magazine.
- (b) “Action” means the working mechanism of a semiautomatic firearm, which is the combination of the receiver or frame and breech bolt together with the other parts of the mechanism by which a firearm is loaded, fired, and unloaded.
- (c) “Barrel” means the tube, usually metal and cylindrical, through which a projectile or shot charge is fired. Barrels may have a rifled or smooth bore.
- (d) “Barrel length” means the length of the barrel measured as follows: Without consideration of any extensions or protrusions rearward of the closed bolt or breech-face the approved procedure for measuring barrel length is to measure from the closed bolt (or breech-face) to the furthestmost end of the barrel or permanently attached muzzle device. Permanent methods of attachment include full-fusion gas or electric steel-seam welding, high-temperature (1100° F) silver soldering, or blind pinning with the pin head welded over. Barrels are measured by inserting a dowel rod into the barrel until the rod stops against the closed bolt or breech-face. The rod is then marked at the furthestmost end of the barrel or permanently attached muzzle device, withdrawn from the barrel, and measured.
- (e) “Bullet” means the projectile expelled from a gun. It is not synonymous with a cartridge. Bullets can be of many materials, shapes, weights, and constructions such as solid lead, lead with a jacket of harder metal, round-nosed, flat-nosed, hollow-pointed, et cetera.
- (f) “Bullet-button” means a product requiring a tool to remove an ammunition feeding device or magazine by depressing a recessed button or lever shielded by a magazine lock. A bullet-button equipped fully functional semiautomatic firearm does not meet the fixed magazine definition under [Penal Code section 30515\(b\)](#).
- (g) “Bore” means the interior of a firearm's barrel excluding the chamber.
- (h) “Caliber” means the nominal diameter of a projectile of a rifled firearm or the diameter between lands in a rifled barrel. In the United States, caliber is usually expressed in hundreds of an inch; in Great Britain in thousandths of an inch; in Europe and elsewhere in millimeters.

(i) “Cartridge” means a complete round of ammunition that consists of a primer, a case, propellant powder and one or more projectiles.

(j) “Centerfire” means a cartridge with its primer located in the center of the base of the case.

(k) “Contained in” means that the magazine cannot be released from the firearm while the action is assembled. For AR-15 style firearms this means the magazine cannot be released from the firearm while the upper receiver and lower receiver are joined together.

(l) “Department” means the California Department of Justice.

(m) “Detachable magazine” means any ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action or use of a tool. A bullet or ammunition cartridge is considered a tool. An ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.

An AR-15 style firearm that has a bullet-button style magazine release with a magnet left on the bullet-button constitutes a detachable magazine. An AR-15 style firearm lacking a magazine catch assembly (magazine catch, magazine catch spring and magazine release button) constitutes a detachable magazine. An AK-47 style firearm lacking a magazine catch assembly (magazine catch, spring and rivet/pin) constitutes a detachable magazine.

(n) “Disassembly of the firearm action” means the fire control assembly is detached from the action in such a way that the action has been interrupted and will not function. For example, disassembling the action on a two part receiver, like that on an AR-15 style firearm, would require the rear take down pin to be removed, the upper receiver lifted upwards and away from the lower receiver using the front pivot pin as the fulcrum, before the magazine may be removed.

(o) “Featureless” means a semiautomatic firearm (rifle, pistol, or shotgun) lacking the characteristics associated with that weapon, as listed in [Penal Code section 30515](#).

(p) “Fixed magazine” means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

(q) “Flare launcher” means a device used to launch signal flares.

(r) “Flash suppressor” means any device attached to the end of the barrel, that is designed, intended, or functions to perceptibly reduce or redirect muzzle flash from the shooter's field of vision. A hybrid device that has either advertised flash suppressing properties or functionally has flash suppressing properties would be deemed a flash suppressor. A device labeled or identified by its manufacturer as a flash hider would be deemed a flash suppressor.

(s) “FMBUS” means a Firearm Manufactured By Unlicensed Subject.

(t) “Forward pistol grip” means a grip that allows for a pistol style grasp forward of the trigger.

(u) “Frame” means the receiver of a pistol.

(v) “Grenade launcher” means a device capable of launching a grenade.

(w) “Permanently attached to” means the magazine is welded, epoxied, or riveted into the magazine well. A firearm with a magazine housed in a sealed magazine well and then welded, epoxied, or riveted into the sealed magazine well meets the definition of “permanently attached to”.

(x) “Overall length of less than 30 inches” with respect to a centerfire rifle means the rifle has been measured in the shortest possible configuration that the weapon will function/fire and the measurement is less than 30 inches. Folding and telescoping stocks shall be collapsed prior to measurement. The approved method for measuring the length of the rifle is to measure the firearm from the end of the barrel, or permanently attached muzzle device, if so equipped, to that part of the stock that is furthest from the end of the barrel, or permanently attached muzzle device. (Prior to taking a measurement the owner must also check any muzzle devices for how they are attached to the barrel.)

(y) “Pistol” means any device designed to be used as a weapon, from which a projectile is expelled by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. This definition includes AR-15 style pistols with pistol buffer tubes attached. Pistol buffer tubes typically have smooth metal with no guide on the bottom for rifle stocks to be attached, and they sometimes have a foam pad on the end of the tube farthest from the receiver.

(z) “Pistol grip that protrudes conspicuously beneath the action of the weapon” means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed beneath or below the top of the exposed portion of the trigger while firing. This definition includes pistol grips on bullpup firearm designs.

(aa) “Receiver” means the basic unit of a firearm which houses the firing and breech mechanisms and to which the barrel and stock are assembled.

(bb) “Receiver, lower” means the lower part of a two part receiver.

(cc) “Receiver, unfinished” means a precursor part to a firearm that is not yet legally a firearm. Unfinished receivers may be found in various levels of completion. As more finishing work is completed the precursor part gradually becomes a firearm. Some just have the shape of an AR-15 lower receiver for example, but are solid metal. Some have been worked on and the magazine well has been machined open. Firearms Manufactured by Unlicensed Subjects (FMBUS) began as unfinished receivers.

(dd) “Receiver, upper” means the top portion of a two part receiver.

(ee) “Rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(ff) “Rimfire” means a rimmed or flanged cartridge with the priming mixture located in the rim of the case.

(gg) “Second handgrip” means a grip that allows the shooter to grip the pistol with their non-trigger hand. The second hand grip often has a grip texture to assist the shooter in weapon control.

(hh) “Semiautomatic” means a firearm functionally able to fire a single cartridge, eject the empty case, and reload the chamber each time the trigger is pulled and released. Further, certain necessary mechanical parts that will allow a firearm to function in a semiautomatic nature must be present for a weapon to be deemed semiautomatic. A weapon clearly designed to be semiautomatic but lacking a firing pin, bolt carrier, gas tube, or some other crucial part of the firearm is not semiautomatic for purposes of Penal Code sections 30515, 30600, 30605(a), and 30900.

(1) A mechanically whole semiautomatic firearm merely lacking ammunition and a proper magazine is a semiautomatic firearm.

(2) A mechanically whole semiautomatic firearm disabled by a gun lock or other firearm safety device is a semiautomatic firearm. (All necessary parts are present, once the gun lock or firearm safety device is removed, and weapon can be loaded with a magazine and proper ammunition.)

(3) With regards to an AR-15 style firearm, if a complete upper receiver and a complete lower receiver are completely detached from one another, but still in the possession or under the custody or control of the same person, the firearm is not a semiautomatic firearm.

(4) A stripped AR-15 lower receiver, when sold at a California gun store, is not a semiautomatic firearm. (The action type, among other things, is undetermined.)

(ii) “Shotgun with a revolving cylinder” means a shotgun that holds its ammunition in a cylinder that acts as a chamber much like a revolver. To meet this definition the shotgun's cylinder must mechanically revolve or rotate each time the weapon is fired. A cylinder that must be manually rotated by the shooter does not qualify as a revolving cylinder.

(jj) “Shroud” means a heat shield that is attached to, or partially or completely encircles the barrel, allowing the shooter to fire the weapon with one hand and grasp the firearm over the barrel with the other hand without burning the shooter's hand. A slide that encloses the barrel is not a shroud.

(kk) “Spigot” means a muzzle device on some firearms that are intended to fire grenades. The spigot is what the grenade is attached to prior to the launching of a grenade.

(ll) “Stock” means the part of a rifle, carbine, or shotgun to which the receiver is attached and which provides a means for holding the weapon to the shoulder. A stock may be fixed, folding, or telescoping.

(mm) “Stock, fixed” means a stock that does not move, fold, or telescope.

(nn) “Stock, folding” means a stock which is hinged in some fashion to the receiver to allow the stock to be folded next to the receiver to reduce the overall length of the firearm. This definition includes under folding and over folding stocks.

(oo) “Stock, telescoping” means a stock which is shortened or lengthened by allowing one section to telescope into another portion. On AR-15 style firearms, the buffer tube or receiver extension acts as the fixed part of the stock on which the telescoping butt stock slides or telescopes.

(pp) “Those weapons with an ammunition feeding device that can be readily removed from the firearm with the use of a tool” includes functional semiautomatic rifles, pistols, and shotguns with bullet-button style magazine releases. These weapons do not have a fixed magazine.

(qq) “Thumbhole stock” means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.

(rr) “Threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer” means a threaded barrel able to accept a flash suppressor, forward handgrip, or silencer, and includes a threaded barrel with any one of those features already mounted on it. Some firearms have “lugs” in lieu of threads on the end of the barrel. These lugs are used to attach some versions of silencers. For purposes of this definition a lugged barrel is the same as a threaded barrel.

Note: Authority cited: [Section 30900, Penal Code](#). Reference: [Sections 30515](#) and [30900, Penal Code](#).

HISTORY

1. New section filed 7-31-2017; operative 7-31-2017. Submitted to OAL for filing and printing only pursuant to [Penal Code section 30900\(b\)\(5\)](#) (Register 2017, No. 31). For prior history, see Register 2011, No. 52.

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11 CCR § 5471, 11 CA ADC § 5471

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Firearms*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JAMES MILLER, et al.,

Plaintiffs,

v.

**CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA, et
al.,**

Defendants.

19-cv-1537 BEN-JLB

**DECLARATION OF PROFESSOR
LOUIS KLAREVAS IN SUPPORT
OF DEFENDANTS' OPPOSITION
TO MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF PROFESSOR LOUIS KLAREVAS

I, Louis Klarevas, declare:

1. I make this Declaration in support of defendants' opposition to plaintiffs' motion for a preliminary injunction. This Declaration is based on my own personal knowledge and experience, and if I am called as a witness, I could and would testify competently to the truth of the matters discussed in this Declaration.

I. QUALIFICATIONS AND BACKGROUND

2. I am a security policy analyst and, currently, Research Professor at Teachers College, Columbia University, in New York. I am also the author of the book *Rampage Nation*, one of the most comprehensive studies on gun massacres in the United States.¹

3. I am a political scientist by training, with a B.A. from the University of Pennsylvania and a Ph.D. from American University. My current research examines the nexus between American public safety and gun violence.

4. During the course of my 20-year career as an academic, I have served on the faculties of the George Washington University, the City University of New York, New York University, and the University of Massachusetts. I have also served as a Defense Analysis Research Fellow at the London School of Economics and Political Science and as United States Senior Fulbright Scholar in Security Studies at the University of Macedonia.

5. In addition to having made well over 100 media and public-speaking appearances, I am the author or co-author of more than 20 scholarly articles and

¹ Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016).

1 over 70 commentary pieces. My most recent project—a peer-reviewed article
2 published in the *American Journal of Public Health*—assessed the effectiveness of
3 restrictions on large-capacity magazines (ammunition-feeding devices holding more
4 than 10 rounds of ammunition) in reducing gun massacres.²

5 6. Besides the present case, I have been previously retained by the
6 California Attorney General’s Office in *Duncan v. Becerra*, Case No. 17-cv-1017-
7 BEN-JLB, Southern District of California, and *Wiese v. Becerra*, Case No. 2:17-cv-
8 00903-WBS-KJN, Eastern District of California. *Duncan* and *Wiese* both involve
9 challenges to California’s regulation of large-capacity magazines. In 2017, I served
10 as an expert for the State of Colorado, as it defended a legal challenge to its
11 restrictions on large-capacity magazines in *Rocky Mountain Gun Owners, et al. v.*
12 *Hickenlooper*, Case Number 2013CV33879, District Court, City and County of
13 Denver, Colorado. While I was never deposed in *Wiese*, I was deposed in *Duncan*
14 and *Rocky Mountain Gun Owners*. I also testified in court in *Rocky Mountain Gun*
15 *Owners*. These are the only times that I have testified or been deposed in legal
16 proceedings in the past five years.

17 7. A more detailed list of my credentials and professional experiences
18 can be found in my curriculum vitae (*see* Exhibit 1).

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26 ² Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on High-*
27 *Fatality Mass Shootings*, 109 Am. J. of Pub. Health 1754 (2019), available at
28 <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last
accessed January 6, 2020).

II. OPINIONS

8. It is my professional opinion, based upon my extensive review and analysis of data from the past four decades, that (1) gun massacres involving six or more fatalities presently pose the deadliest criminal threat, in terms of individual acts of intentional violence, to the safety and security of American society in the post-9/11 era, and the problem is growing nationwide; (2) gun massacres involving assault weapons, on average, have resulted in a substantially larger loss of life than similar incidents that did not involve assault weapons; and (3) jurisdictions that restrict the possession of assault weapons experience fewer gun massacres, per capita, than jurisdictions that do not restrict assault weapons. Based on these findings, it is my opinion that restrictions on assault weapons have the potential to significantly reduce the frequency and lethality of gun massacres (*see* Exhibit 2 for a tabular overview of how gun massacres are definitionally a subset of mass shootings).³

A. Gun Massacres Are a Growing Threat to Public Safety

9. In 1984, a gunman armed with, among other firearms, an Uzi assault weapon walked into a restaurant in San Ysidro, California, and murdered 21 people and injured 19 others, making it the deadliest mass shooting in American history at

³ In my book *Rampage Nation*, I defined a mass shooting as “any violent attack that results in four or more individuals incurring gunshot wounds.” I then differentiated between three different categories of mass shooting: (1) Nonfatal are those mass shootings in which no one dies; (2) Fatal are those mass shootings in which at least one victim dies; and (3) High-Fatality are those mass shootings in which six or more victims die. Throughout my book and in this Declaration, I use the terms “high-fatality mass shooting” and “gun massacre” interchangeably. Of the three categories of mass shooting, gun massacres are the deadliest, resulting in the highest fatality tolls per individual incidents. Klarevas, *supra* note 1, at 47-48.

the time. In the years since, the United States has experienced several deadlier shootings: 27 people killed, including 20 first-graders, in Newtown, Connecticut, in 2012; 49 people killed in Orlando, Florida, in 2016; and 58 people killed in Las Vegas, Nevada, in 2017. All of these gun massacres were perpetrated with assault weapons (*see* Exhibit 3 for details on how gun massacres involving assault weapons have been coded for purposes of this Declaration).

10. Since the coordinated attack by terrorists on September 11, 2001, gun massacres—like the Newtown, Orlando, and Las Vegas shootings—have been the deadliest individual acts of violence in the United States. In fact, the ten deadliest acts of intentional violence since 9/11 have all been gun massacres (*see* Table 1). In terms of the number of victims-per-incident, mass shootings are presently the most lethal criminal threat to the security and safety of American society.⁴

Table 1. The 10 Deadliest Acts of Intentional Violence in the U.S. since 9/11

Deaths	Date	Location	Involved Assault Weapon(s)
58	October 1, 2017	Las Vegas, NV	✓
49	June 12, 2016	Orlando, FL	✓
32	April 16, 2007	Blacksburg, VA	
27	December 14, 2012	Newtown, CT	✓
25	November 5, 2017	Sutherland Springs, TX	✓
22	August 3, 2019	El Paso, TX	✓
17	February 14, 2018	Parkland, FL	✓
14	December 2, 2015	San Bernardino, CA	✓
13	April 3, 2009	Binghamton, NY	
13	November 5, 2009	Fort Hood, TX	

11. Since 1980, there have been a total of 103 gun massacres (high-fatality mass shootings resulting in six or more victims being shot to death), claiming a combined 1,007 lives (*see* Exhibit 3). The data show that the past decade

⁴ Unless stated otherwise, all of the data used to perform original analyses and to construct tables and figures in this Declaration are drawn from the list of all gun massacres since 1980 in Exhibit 3.

(2010-2019) has been the worst on record, accounting for over one-third of all gun-massacre incidents from the past four decades (37 out of 103) and over 45% of all deaths lost in such high-fatality mass shootings (457 out of 1,007). In other words, mass shootings pose a grave threat to the United States, and the threat is growing (see Figures 1 and 2).

Figure 1. Gun-Massacre Incidents by Decade, 1980-2019

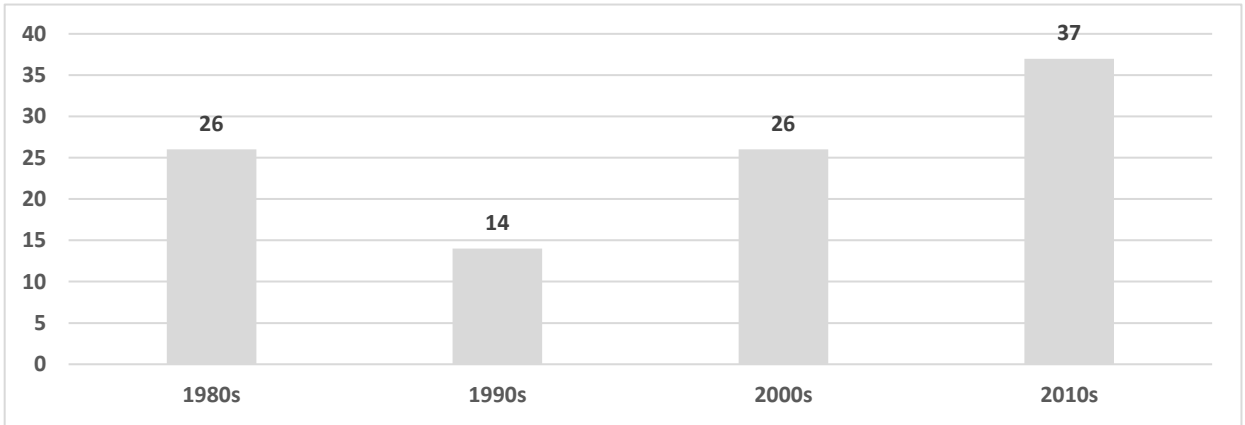
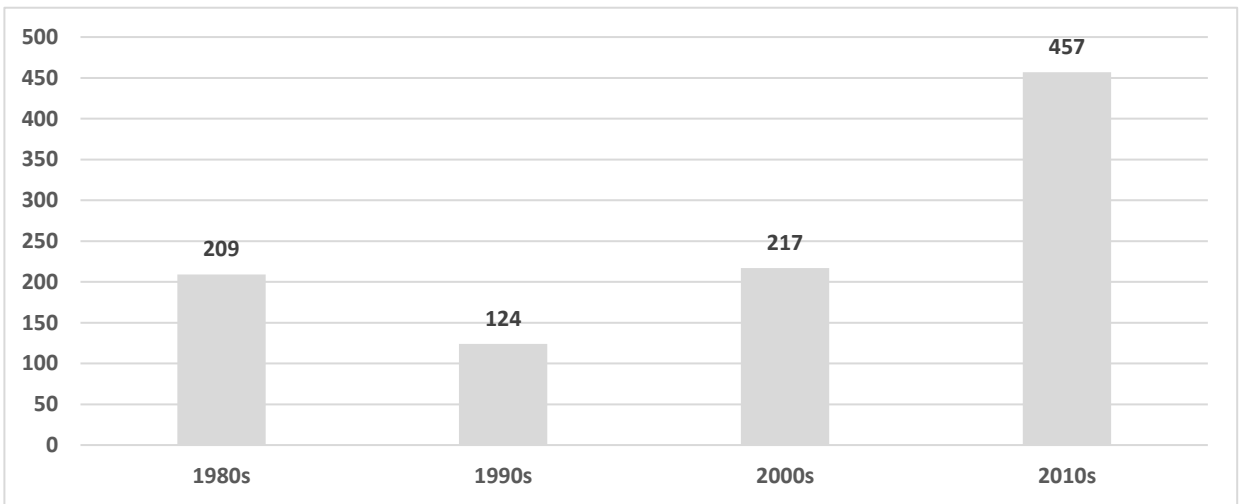


Figure 2. Gun-Massacre Deaths by Decade, 1980-2019



B. The Use of Assault Weapons Is a Major Factor in the Rise of Gun-Massacre Violence

12. A review of the data from the past 40 years indicates that gun massacres have grown in terms of frequency and lethality. The data also point to another striking pattern: the use of assault weapons in the commission of gun massacres has risen in vast proportions (*see* Figures 3 and 4).

Figure 3. Assault Weapon Gun-Massacre Incidents by Decade, 1980-2019

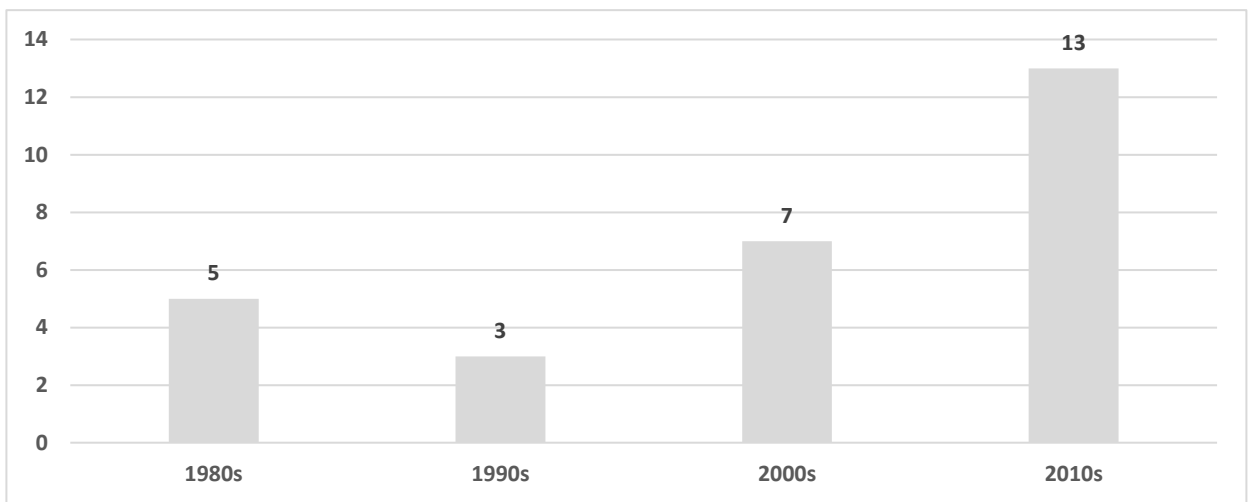
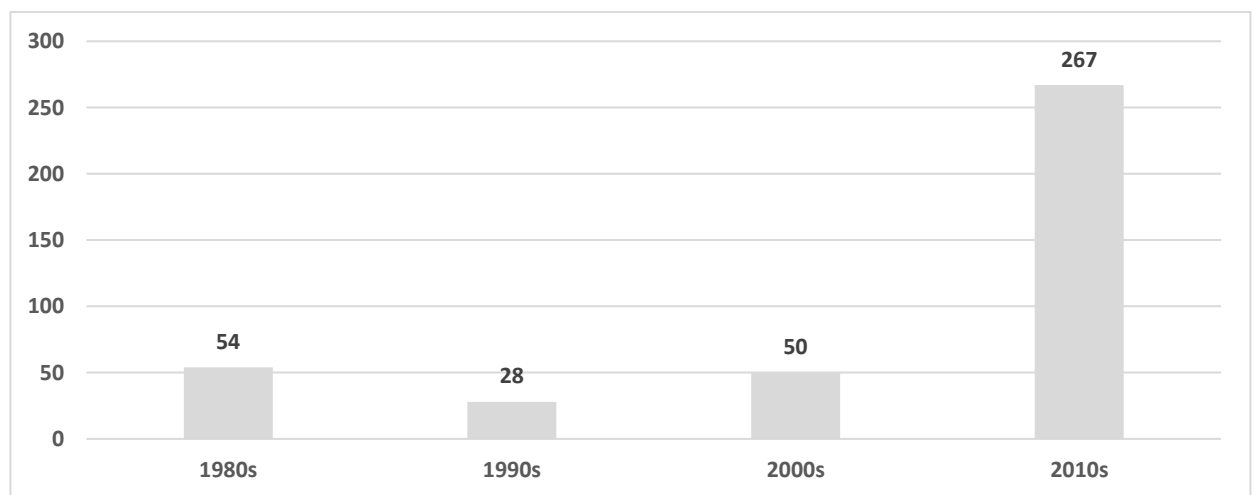
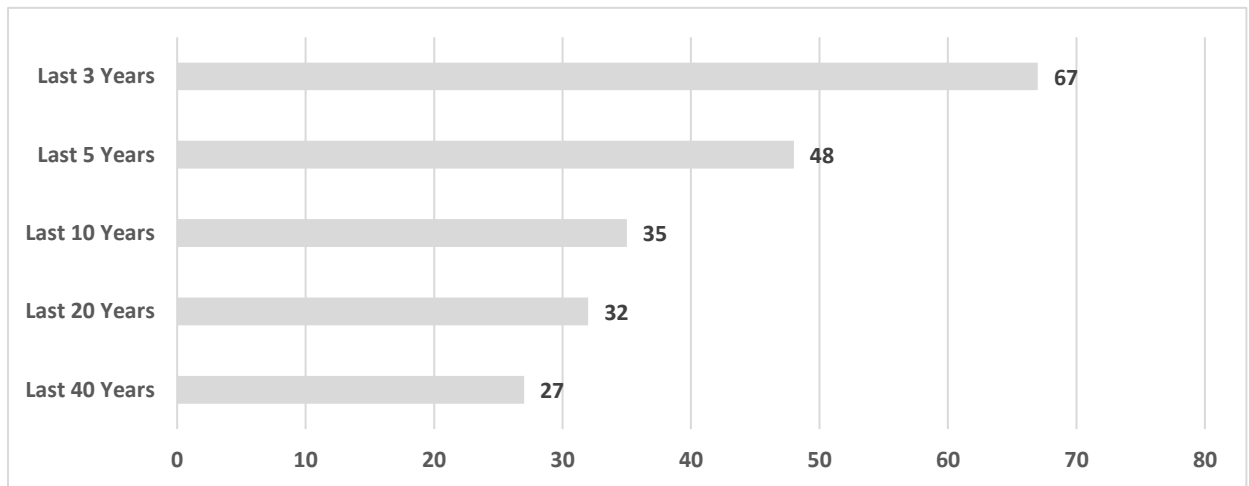


Figure 4. Assault Weapon Gun-Massacre Deaths by Decade, 1980-2019



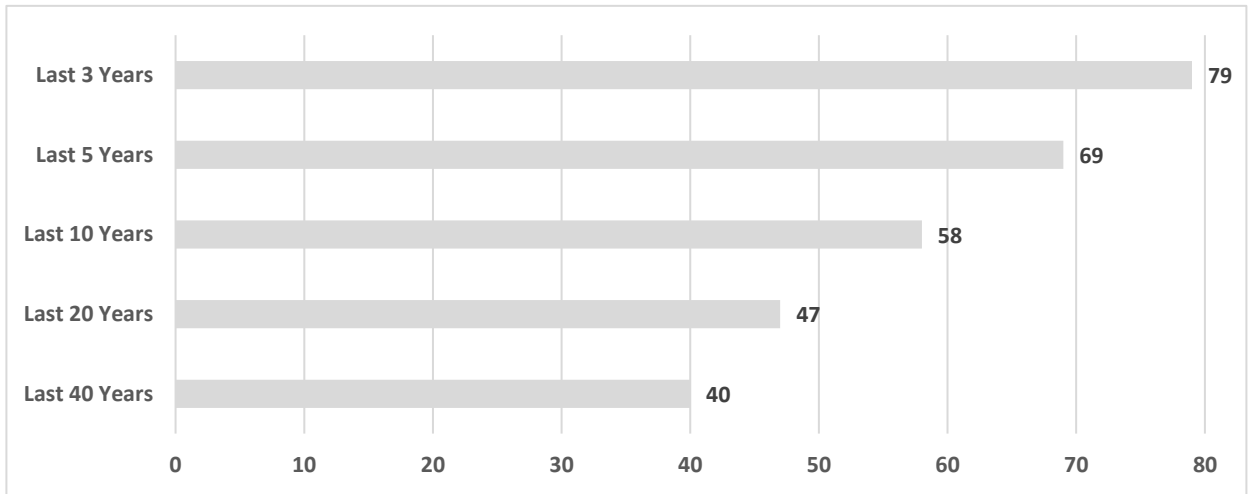
13. A comparison of the 1980s with the most recent decade shows that the proportion of gun massacres involving assault weapons has increased significantly. During the 1980s, less than 20% of all gun massacres involved assault weapons (5 out of 26 incidents). In the 2010s, 35% of all gun massacres involved assault weapons (13 out of 37 incidents). The resort to assault weapons has been growing over the past 40 years. It is particularly marked of late, with 67% of all gun massacres in the last three years perpetrated with an assault weapon (*see* Figure 5).

Figure 5. Percentage of Gun-Massacre Incidents Involving Assault Weapons



14. Even more pronounced, the proportion of deaths attributable to gun massacres involving assault weapons has more than doubled between the same two 10-year periods, from 26% to 58% (54 out of 209 deaths during the 1980s compared to 267 out of 457 deaths during the 2010s). Indeed, deaths attributable to gun massacres involving assault weapons have risen steadily in the past four decades, with the percentage in the last three years reaching 79% (*see* Figure 6).

Figure 6. Percentage of Gun-Massacre Deaths Involving Assault Weapons



15. It is also worth noting that the 13 gun massacres involving assault weapons from the past decade account for 46% of all 28 gun massacres involving assault weapons since 1980, and the 267 deaths attributable to these 13 incidents account for 67% of all 399 deaths resulting from gun massacres involving assault weapons since 1980. This reflects a growing preference for using assault weapons to commit high-fatality mass shootings (*see* Figure 7).

Figure 7. Gun-Massacre Incidents and Deaths Involving Assault Weapons per Decade as a Percentage of All Gun-Massacre Incidents and Deaths Involving Assault Weapons, 1980-2019

Figure 7a. Incidents

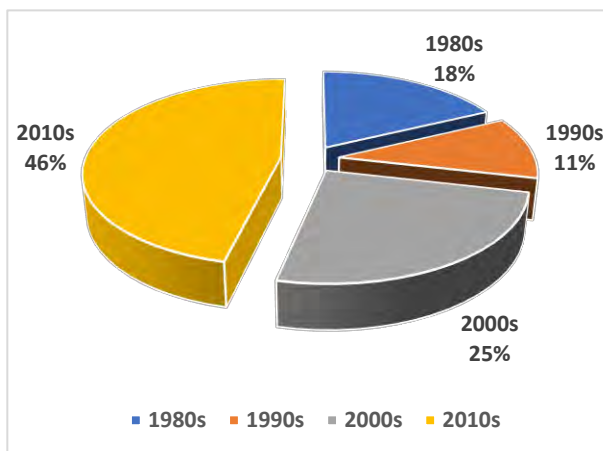
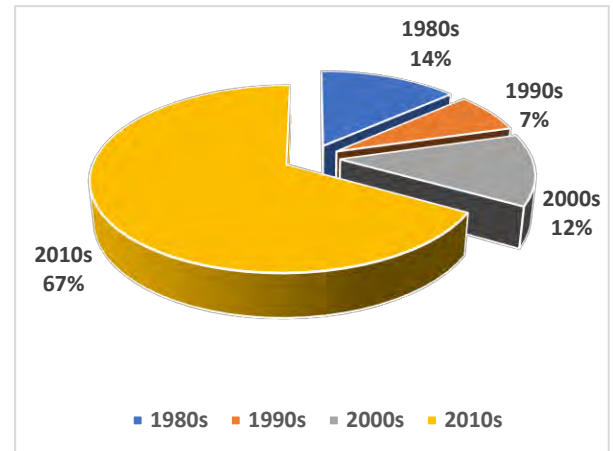


Figure 7b. Deaths



1 16. The growing use of assault weapons to carry out gun massacres is a
 2 clear theme reflected in the data. The *disproportionate* resort to assault weapons by
 3 perpetrators of high-fatality mass shootings is another obvious theme. According to
 4 the Declaration of James Curcuruto of the National Sport Shooting Foundation
 5 (NSSF) in the present case, as of December 2019, “modern sporting rifles” made up
 6 approximately 4% of all firearms in circulation in American society (17.7 million
 7 out of 423 million firearms).⁵ If assault weapons were used in proportion to the
 8 percentage of modern sporting rifles in circulation, approximately 4% of all gun
 9 massacres would involve assault weapons. Yet, in 2019 (the year corresponding to
 10 NSSF’s survey data), 75% of all gun massacres were committed with assault rifles
 11 (*see* Exhibit 3), far outpacing their relative prevalence in society.

12 17. Of the 103 gun massacres since 1980, 28 involved assault weapons,
 13 resulting in a cumulative 399 deaths (*see* Exhibit 3). The average death toll for
 14 these 28 gun massacres involving assault weapons is 14.3 fatalities per shooting
 15 (*see* Table 2). By contrast, the average death toll for the 75 incidents in which
 16 assault weapons were not used is 8.1 fatalities per shooting. In other words, the use
 17 of assault weapons in gun massacres resulted in a 77% increase in fatalities per
 18 incident. In the past decade, the difference is even more pronounced—far more
 19 than double: 7.9 versus 20.5 deaths per incident (*see* Table 2). This amounts to a
 20 159% increase in the average death toll, attributed to the use of assault weapons.
 21 Moreover, since 1980, assault weapons have been used in 80% of all gun massacres
 22 with 25 or more deaths—establishing a relationship between assault weapons and
 23 the deadliest gun massacres. The data demonstrate that assault weapons are
 24 dangerous force multipliers when used to perpetrate high-fatality mass shootings.

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 26
 27 ⁵ Declaration of James Curcuruto in Support of Plaintiffs’ Motion for Preliminary
 28 Injunction, *Miller v. Becerra* (S.D. Cal. Dec. 6, 2019), No. 19-cv-1537-BEN-JLB,
 Doc. 22-13, para. 15.

Table 2. The Dangerous Death Tolls Associated with the Use of Assault Weapons in Gun Massacres

	Average Death Toll for Gun Massacres That Did Not Involve the Use of Assault Weapons	Average Death Toll for Gun Massacres That Did Involve the Use of Assault Weapons	Percent of Increase in Average Death Toll Associated with the Use of Assault Weapons
1980-2019	8.1 Deaths	14.3 Deaths	77%
2010-2019	7.9 Deaths	20.5 Deaths	159%

C. Restrictions on Assault Weapons Reduce the Incidence of Gun Massacres, Resulting in Lives Saved

18. In light of the growing threat posed by mass shootings, legislatures have enacted measures aimed at reducing the occurrence and lethality of such deadly acts of firearm violence. Prominent among these measures are restrictions on assault weapons. In 1989, California became the first state to enact an assault weapons ban. The Roberti-Roos Assault Weapons Control Act (AWCA) was passed by the California legislature in 1989 in response to an attack on Cleveland Elementary School in Stockton earlier that year. The gunman in this mass shooting used an AK-47 to kill five children and wound another 30 individuals, 29 of whom were children. In the process of enacting the AWCA, the legislature codified its findings and intent (at Cal. Penal Code § 30505(a)):

The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of the state. The Legislature has restricted the assault weapons specified in [California's statutes] based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a

1 legitimate sports or recreational firearm is substantially outweighed by the
2 danger that it can be used to kill and injure human beings.

3
4 19. In the years since, the state legislature has revised the law to make it
5 more effective. In the deliberations over SB 880 in 2016, which was ultimately
6 enacted to close the so-called “bullet button” loophole, the author of that bill stated:

7 [Assault weapons] are designed only to facilitate the maximum destruction of
8 human life. Such weapons have been used in a number of recent gun attacks,
9 including the recent terrorist attack in San Bernardino that left 14
10 Californians dead and 21 injured. Too many Californians have died at the
11 hands of these dangerous weapons.⁶

12 20. In considering SB 880, the Assembly Committee on Public Safety
13 noted that the assault weapon is considered “an effective tool of *mass murder*.”⁷
14 This sentiment was echoed in the Senate Committee on Public Safety, which, in its
15 report on SB 880, reproduced the following rationale in support of the bill:

16 The rapid and controlled spray of bullets associated with assault weapons is a
17 threat to police officers, families, and communities. As was shown by the
18 tragedy at Sandy Hook School and more recently in San Bernardino, an
19 assault weapon escalates the lethality and number of victims in a *mass*
20 *shooting incident*.⁸

21
22 ⁶ Report of the Assembly Committee on Public Safety on SB 880 (Hall), May 17,
23 2016, *available at*
24 [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB880)
25 [SB880](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB880) (last accessed January 10, 2020).

26 ⁷ *Id.* (emphasis added).

27 ⁸ Report of the Senate Committee on Public Safety on SB 880 (Hall), March 28,
28 2016, *available at*
[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB880)
[SB880](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160SB880) (last accessed January 10, 2020) (emphasis added).

21. The legislative intent of California is not significantly different from that of the other states that have since restricted assault weapons. *The primary objective of every assault weapons ban is reducing the frequency and lethality of mass shootings.* Because, on average, the use of assault weapons results in higher death tolls in mass shootings, the rationale for imposing tight restrictions on assault weapons is to reduce the loss of life attributable to the increased kill potential of such dangerous firearms.

22. In 1994, the United States enacted the Federal Assault Weapons Ban (AWB). Pub. L. No. 103-322, tit. XI, subtit. A, 108 Stat. 1796, 1996-2010 (codified as former 18 U.S.C. § 922(v), (w)(1) (1994)). Modelled after California's AWCA, the federal AWB was also aimed primarily at reducing mass-shooting violence. The law, which was in effect for only 10 years before sun-setting, regulated certain firearms and their components. Among its provisions, the AWB prohibited the manufacture, sale, transfer, or possession of *new* assault weapons.⁹

23. The AWB had a positive impact in reducing the number and deadliness of gun massacres (*see* Exhibit 4). Comparing the 10-year periods before, during, and after the AWB shows that the implementation of the law coincided with a 37% drop in gun massacres and a 40% drop in gun massacres involving assault weapons (*see* Table 3). Likewise, when compared to the 10-year period immediately prior to the AWB, the 10-year period that the AWB was in effect reflected a 43% decline in gun-massacre deaths and a 26% decline in deaths resulting from gun massacres involving assault weapons (*see* Table 3). When the AWB expired, the 10-year period that immediately followed experienced substantially greater gun-massacre violence. In particular, when compared to the

⁹ Assault weapons lawfully in circulation prior to the AWB's date of effect (September 13, 1994) were exempted (i.e., grandfathered) from the ban. Former 18 U.S.C. § 922 (v)(2) (1994).

1 10-year period that the AWB was in effect, the succeeding 10-year period coincided
2 with a 183% increase in gun-massacre incidents and a 167% increase in gun-
3 massacre incidents involving assault weapons (*see* Table 3). Fatalities tracked a
4 similar, albeit steeper, upward trajectory. The 10-year period immediately
5 following the AWB coincided with a 239% increase in gun-massacre deaths and a
6 223% increase in gun-massacre deaths resulting from incidents involving assault
7 weapons (*see* Table 3).

8 24. Even when comparing incidence and fatality rates—which respectively
9 measure the onset of new cases and deaths per population under examination—the
10 pattern holds. The incidence and fatality rates for all gun massacres as well as only
11 for gun massacres involving assault weapons all fell during the 10-year period of
12 the AWB, only to skyrocket during the 10-year period that immediately followed
13 the expiration of the ban (*see* Table 3). The data pertaining to gun massacres
14 immediately before, during, and immediately after the AWB point to an obvious
15 conclusion: the AWB ushered in a period marked by stark reductions in gun-
16 massacre violence, which increased drastically following the ban’s end.

Table 3. The Impact of the Federal Assault Weapons Ban on Gun Massacres

	10-Years Before AWB (9/13/84- 9/12/94)	10-Years During AWB (9/13/94- 9/12/04)	Percentage of Change from Period Before to Period During AWB	10-Years During AWB (9/13/94- 9/12/04)	10-Years After AWB (9/13/04- 9/12/14)	Percentage of Change from Period During to Period After AWB
All Gun- Massacre Incidents	19	12	- 37%	12	34	+183%
Gun- Massacre Incidents Involving Assault Weapons	5	3	-40%	3	8	+167%
Deaths in All Gun- Massacre Incidents	155	89	-43%	89	302	+239%
Deaths in Gun- Massacre Incidents Involving Assault Weapons	35	26	-26%	26	84	+223%
Incidence Rate for All Gun- Massacre Incidents	0.76	0.43	-43%	0.43	1.11	+158%
Incidence Rate for Gun- Massacre Incidents Involving Assault Weapons	0.20	0.11	-45%	0.11	0.26	+136%
Fatality Rate for All Gun- Massacre Incidents	6.22	3.18	-49%	3.18	9.82	+209%
Fatality Rate for Gun- Massacre Incidents Involving Assault Weapons	1.40	0.93	-34%	0.93	2.73	+194%

Note: Incidence and fatality rates are calculated as annual rates per 100 million population, using mean population for each 10-year period under examination.

25. California's AWCA took effect on January 1, 1990, making California the first state to regulate assault weapons, although the District of Columbia has been regulating semiautomatic firearms with enhanced firing capacity, including assault weapons, since 1932. Six other states and the District of Columbia have also prohibited the possession of certain assault weapons in an effort to reduce the loss of life in mass shootings. The following is a list of those jurisdictions and the effective dates of their bans: New Jersey (September 1, 1990); Hawaii (July 1, 1992, assault pistols only); Connecticut (October 1, 1993); Maryland (June 1, 1994, initially assault pistols but expanded to long guns October 1, 2013); Massachusetts (July 23, 1998); New York (November 1, 2000); and the District of Columbia (updating its pre-existing regulations on March 31, 2009).¹⁰

26. In the field of epidemiology, a common method for assessing the impact of laws and policies is to measure the rate of onset of new cases of an event, comparing the rate when and where the laws and policies were in effect against the rate when and where the laws and policies were not in effect. This measure, known as the incidence rate, allows public health experts and criminologists to identify discernable differences, while accounting for variations in the population, over a set period of time. Relevant to the present case, calculating incidence rates across jurisdictions, in a manner that captures whether or not assault weapons bans were in effect during the period of observation, allows for the assessment of the effectiveness of such bans. In addition, fatality rates—the number of deaths, per

¹⁰ For a review of state laws that regulate assault weapons, including the effective dates of each state assault weapons ban currently in effect in the United States, *see* Giffords Law Center to Prevent Gun Violence, "Assault Weapons," *available at* <https://lawcenter.giffords.org/gun-laws/policy-areas/hardware-ammunition/assault-weapons> (last accessed January 10, 2020).

1 population, that result from particular events across different jurisdictions—also
2 provide insights into the impact of assault weapons bans on gun massacres.¹¹

3 27. Since January 1, 1990, when the first state ban on assault weapons
4 took effect, there have been 77 gun massacres in the United States (*see* Exhibit 3).¹²
5 Calculating gun-massacre rates for the time-period 1990-2019, across jurisdictions
6 with and without bans on the possession of assault weapons, reveals that states that
7 restricted possession of certain assault weapons experienced a 46% decrease in the
8 incidence rate and a 57% decrease in the fatality rate for all gun massacres,
9 regardless of the weaponry used by the mass murderers (*see* Table 4).¹³ When
10 calculations go a step further and are limited to gun massacres involving assault
11 weapons, the difference between the two jurisdictional categories (non-ban states
12 and ban states) is even more pronounced. In the past 30 years, accounting for
13 population, states with assault weapons bans in place experienced 54% fewer gun
14 massacres involving the use of assault weapons and 67% fewer deaths resulting
15 from such attacks perpetrated with assault weapons (*see* Table 4). All of the above
16 epidemiological calculations lead to the same conclusion: when bans on assault
17

18
19 ¹¹ For purposes of this Declaration, incidence and fatality (i.e., mortality) rates are
20 calculated in accordance with the methodological principles established by the
21 Centers for Disease Control and Prevention. *See* Centers for Disease Control and
22 Prevention, *Principles of Epidemiology in Public Health Practice: An Introduction
to Applied Epidemiology and Biostatistics* (2012), *available at*
<https://stacks.cdc.gov/view/cdc/13178> (last accessed January 10, 2020).

23 ¹² There were no state bans on assault weapons in effect prior to 1990. Therefore,
24 1990 is the logical starting point for an analysis of the impact of state assault
weapons bans.

25 ¹³ For purposes of coding, between September 13, 1994, and September 12, 2004,
26 the federal AWB was in effect. During that 10-year period, all 50 states and the
27 District of Columbia were under legal conditions that banned the possession of
28 certain prohibited assault weapons. As such, the entire country is coded as being
under an assault weapons ban during the timeframe that the AWB was in effect.

weapons are in effect, per capita, fewer gun massacres occur and fewer people die in such high-fatality mass shootings.

Table 4. Incidence and Fatality Rates for Gun Massacres, by Whether or Not Assault Weapons Bans Were in Effect, 1990-2019

	Annual Average Population (Millions)	Total Incidents	Annual Incidents per 100 Million Population	Total Deaths	Annual Deaths per 100 Million Population
All Gun Massacres					
Non-AW Ban States	150.6	51	1.13	566	12.53
AW Ban States	142.1	26	0.61	232	5.44
Percentage Decrease in Rate for AW Ban States			46%		57%
Gun Massacres Involving Assault Weapons					
Non-AW Ban States	150.6	16	0.35	263	5.82
AW Ban States	142.1	7	0.16	82	1.92
Percentage Decrease in Rate for AW Ban States			54%		67%

Note: Population data are from U.S. Census Bureau's State Intercensal Datasets, available at <https://www.census.gov/data/datasets.All.html> (last accessed January 7, 2020).

D. Response to Declaration of John Lott in Support of Plaintiffs' Motion for Preliminary Injunction

28. In support of their Motion for Preliminary Injunction, the Plaintiffs include a Declaration from John Lott. The overall conclusion of Lott's Declaration is that "there is no credible evidence that so-called 'assault weapons' bans have any meaningful effect on reducing gun homicides and no discernable crime-reduction impact."¹⁴ Lott has a long history of employing questionable and faulty practices to advance arguments against firearms regulations, resulting in accusations that his

¹⁴ Declaration of John Lott in Support of Plaintiffs' Motion for Preliminary Injunction, *Miller v. Becerra* (S.D. Cal. Dec. 6, 2019), No. 19-cv-1537-BEN-JLB, Doc. 22-18, para. 63.

1 gun violence research is “junk science.”¹⁵ Lott’s Declaration in the present case
 2 suffers from similar problems.

3 29. The major arguments that Lott attempts to advance in his Declaration
 4 can be summed up as follows:

- 5 A. Studies show that criminals do not acquire their firearms through legal
 6 channels, meaning that bans on weapons generally will not influence
 7 criminals’ use of those prohibited weapons; and
- 8 B. “All credible studies” have found that bans on assault weapons have
 9 not had any meaningful effect on crime, implying that bans on assault
 10 weapons do not work.

11 30. As discussed above, the legislative intent of bans on assault weapons is
 12 primarily to reduce the frequency and lethality of massacres perpetrated with
 13 firearms, especially military-style firearms. With that in mind, it is noteworthy to
 14 identify what is conspicuously absent from Lott’s Declaration. In particular, Lott
 15 fails to mention how (1) legislatures enacting assault weapons bans are primarily
 16 targeting the use of military-style firearms to commit mass murder, as opposed to
 17 all gun violence in general; (2) the number of victims losing their lives in gun
 18 massacres nationwide, especially those involving assault weapons, has been on the
 19 rise since the expiration of the federal AWB in 2004; (3) the use of assault weapons
 20 in gun massacres has been disproportionately higher than the percentage of assault
 21 weapons in circulation; and (4) the use of assault weapons in gun massacres has
 22

23
 24 ¹⁵ Evan DeFilippis & Devin Hughes, *Shooting Down the Gun Lobby’s Favorite*
 25 *‘Academic’: A Lott of Lies*, Armed with Reason, December 1, 2014, available at
 26 [http://www.armedwithreason.com/shooting-down-the-gun-lobbys-favorite-](http://www.armedwithreason.com/shooting-down-the-gun-lobbys-favorite-academic-a-lott-of-lies)
 27 [academic-a-lott-of-lies](http://www.armedwithreason.com/shooting-down-the-gun-lobbys-favorite-academic-a-lott-of-lies) (last accessed on January 13, 2020); and Piers Morgan,
 28 *Lawyer Alan Dershowitz on the Research of Author John Lott Jr.: ‘Junk Science ...*
Paid for by the National Rifle Association’, CNN.com, July 24, 2012, available at
[http://piersmorgan.blogs.cnn.com/2012/07/24/lawyer-alan-dershowitz-on-the-](http://piersmorgan.blogs.cnn.com/2012/07/24/lawyer-alan-dershowitz-on-the-research-of-author-john-lott-jr-junk-sciencepaid-for-by-the-national-rifle-association)
[research-of-author-john-lott-jr-junk-sciencepaid-for-by-the-national-rifle-](http://piersmorgan.blogs.cnn.com/2012/07/24/lawyer-alan-dershowitz-on-the-research-of-author-john-lott-jr-junk-sciencepaid-for-by-the-national-rifle-association)
[association](http://piersmorgan.blogs.cnn.com/2012/07/24/lawyer-alan-dershowitz-on-the-research-of-author-john-lott-jr-junk-sciencepaid-for-by-the-national-rifle-association) (last accessed January 13, 2020).

1 resulted in substantially higher average death tolls, when compared to incidents that
 2 do not involve assault weapons. As discussed above, there is an evidentiary basis
 3 for these four relevant factual patterns that Lott overlooks.

4 31. Nevertheless, the two major conclusions advanced by Lott in his
 5 Declaration (summarized above in para. 29) deserve a response. First, Lott asserts
 6 that “criminals do not buy their firearms legally.”¹⁶ He goes on to claim that
 7 “criminals have guns and they get them illegally, primarily from drug dealers....
 8 Arbitrary bans of firearm features will do little to stop this.”¹⁷ Leaving aside the
 9 unsubstantiated and unsourced claim that criminals obtain their illegal firearms
 10 “primarily from drug dealers,” Lott fails to mention that multiple investigations
 11 have determined that the vast majority of gunmen who used a firearm to commit
 12 mass murder obtained their weapons legally.¹⁸ Knowing that mass murderers tend
 13 to acquire their assault weapons legally suggests that assault weapons bans can
 14 assist in reducing the occurrence of gun massacres. In fact, a recent study in the
 15 *British Medical Journal* (which Lott did not reference) found that “States with more
 16 permissive gun laws and greater gun ownership have higher rates of mass
 17 shootings, and a growing divergence is noted in recent years as rates of mass
 18

19
 20
 21 ¹⁶ Declaration of John Lott, *supra* note 14, para. 10.

22 ¹⁷ *Id.*, para 13.

23 ¹⁸ Larry Buchanan et al., *How They Got Their Guns*, N.Y. Times, February 16,
 24 2018, available at <https://www.nytimes.com/interactive/2015/10/03/us/how-mass-shooters-got-their-guns.html> (last accessed January 13, 2020); Luis Melgar & Lisa
 25 Dunn, *Since 1982, 74 Percent of Mass Shooters Obtained Their Guns Legally*,
 26 Guns and America (WAMU Public Radio), November 2, 2018, available at
 27 <https://gunsandamerica.org/story/18/11/02/since-1982-74-percent-of-mass-shooters-obtained-their-guns-legally> (last accessed January 13, 2020); Jillian K.
 28 Peterson and James A. Densley, *The Violence Project Database of Mass Shootings in the United States, 1966-2019*, November 2019, available at
https://www.researchgate.net/publication/337261684_The_Violence_Project_Database_of_Mass_Shootings_in_the_United_States_1966-2019 (last accessed
 January 13, 2020).

1 shootings in restrictive states have decreased and those in permissive states have
2 increased.”¹⁹

3 32. Second, Lott asserts that “all *credible* evidence shows that assault
4 weapon bans have little to no effect in reducing *mass shootings*, homicides, or
5 violent crime.”²⁰ There is a solid evidentiary foundation for rejecting this assertion.
6 Focusing on mass shootings, which is the primary focus of assault weapons bans,
7 scholarly research shows that bans on assault weapons have indeed been effective.
8 As the bulk of Lott’s Declaration deals with the impact of assault weapons bans and
9 given that he devoted one-third of his Declaration to my research, a discussion of
10 the flaws in his analysis is warranted.

11 33. In support of his claim, Lott cites four studies that, according to him,
12 offer evidence that assault weapons bans are ineffective.²¹ The four particular
13 studies referenced by Lott are a 2004 preliminary report on the 1994 federal AWB
14 led by Christopher Koper that ultimately concluded “it is premature to make
15 definitive assessments of the ban’s impact on gun crime”;²² an article by Gary
16 Kleck on the use of large-capacity magazines in mass shootings that did not assess
17 the effectiveness of any firearms bans whatsoever;²³ a short research note by Mark
18

19
20 ¹⁹ Paul M. Reeping et al., *State Gun Laws, Gun Ownership, and Mass Shootings in*
21 *the U.S.: Cross Sectional Time Series*, British Medical Journal, 364, no. 8190,
22 (2019), available at <https://www.bmj.com/content/364/bmj.1542> (last accessed
January 13, 2020).

23 ²⁰ Declaration of John Lott, *supra* note 14, para. 64 (emphasis added).

24 ²¹ *Id.*, paras. 19-30.

25 ²² Christopher S. Koper et al., *An Updated Assessment of the Federal Assault*
26 *Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Report to
the National Institute of Justice, Jerry Lee Center for Criminology, University of
Pennsylvania 2 (2004), available at Declaration of John Lott, *supra* note 14,
Exhibit 7.

27 ²³ Gary Kleck, *Large-Capacity Magazines and the Casualty Counts in Mass*
28 *Shootings: The Plausibility of Linkages*, 17 Justice Research & Policy 28 (2016),
available at Declaration of John Lott, *supra* note 14, Exhibit 8.

1 Gius that did not address mass shootings;²⁴ and Lott’s own three-page “simple
 2 before-and-after” assessment of assault weapons bans from his controversial and
 3 much challenged book *More Guns, Less Crime*.²⁵ As none of these studies offer an
 4 evidentiary basis that is directly related to the legislative intent of assault weapons
 5 bans, they are largely irrelevant.

6 34. Lott also cites four other studies that found evidence that assault
 7 weapons bans have been effective at reducing mass shooting violence in the United
 8 States. However, Lott concludes that all four of these studies can be dismissed
 9 because, according to him, they are not “credible.”

10 35. The first study that Lott dismisses is a 2018 study led by Christopher
 11 Koper, the lead author of the 2004 preliminary report on the 1994 federal AWB.
 12 According to Lott, the 2018 Koper et al. study “provides no evidence that murders
 13 or mass public shootings were reduced by the [federal] assault weapon ban.”²⁶
 14 However, Koper and his colleagues actually state, “available information suggests
 15 that AWs and other high-capacity semiautomatics are involved in as many as 57%
 16 of [mass murder] incidents. Further, they are particularly prominent in public mass
 17 shootings and those resulting in the highest casualty counts.”²⁷ This led the authors
 18 to conclude that their study “provides further evidence that the federal ban curbed
 19
 20
 21

22 ²⁴ Mark Gius, *An Examination of the Effects of Concealed Weapons Laws and*
 23 *Assault Weapons Bans on State-Level Murder Rates*, 21 Applied Economics
 Letters 265, available at Declaration of John Lott, *supra* note 14, Exhibit 9.

24 ²⁵ John R. Lott, Jr., *More Guns, Less Crime: Understanding Crime and Gun Control*
 25 *Laws* 327 (3d ed. 2010), available at Declaration of John Lott, *supra* note 14,
 Exhibit 10.

26 ²⁶ Declaration of John Lott, *supra* note 14, paras. 31-33.

27 ²⁷ Christopher S. Koper et al., *Criminal Use of Assault Weapons and High-Capacity*
 28 *Semiautomatic Firearms: An Updated Examination of Local and National Sources*,
 95 Journal of Urban Health 313, 319 (2018), available at Declaration of John Lott,
supra note 14, Exhibit 11.

1 the spread of high-capacity semiautomatic weapons when it was in place and, in
2 doing so, may have had preventive effects on gunshot victimizations.”²⁸

3 36. The second study that Lott dismisses is a 2019 article by Charles
4 DiMaggio and his colleagues.²⁹ After comparing trends from 1981-2017, the
5 authors concluded that “the federal AWB of 1994 to 2004 was effective in reducing
6 mass shooting–related homicides in the United States, and we believe our results
7 support a re-institution of the 1994 federal assault weapons ban as a way to prevent
8 and control mass shooting fatalities in the United States.”³⁰ Lott is critical of this
9 study for applying a time-series analysis (which is a form of trend analysis that
10 observes data points across time intervals), even though this is an acceptable
11 methodology in the social sciences (as will be shown below).³¹ In fact, Lott himself
12 has performed such “simple before-and-after” assessments, including in his
13 Declaration.³² Lott is also critical of the DiMaggio et al. study for not “attempt[ing]
14 to differentiate states with and without their own assault weapons bans,” even
15 though the main purpose of the study was to evaluate the impact of the federal
16 AWB.³³

17 37. The third study that Lott dismisses is a 2015 article by Mark Gius on
18 the impact of both the federal AWB as well as state assault weapons bans on public
19 mass shootings.³⁴ After surveying public mass shootings from 1982-2011, Gius
20 found that “fatalities due to mass shootings were lower during both the federal and
21

22 ²⁸ *Id.*, at 320.

23 ²⁹ Declaration of John Lott, *supra* note 14, paras. 34-37.

24 ³⁰ Charles DiMaggio et al., *Changes in US Mass Shooting Deaths Associated with*
25 *1994-2004 Federal Assault Weapons Ban: Analysis of Open-Source Data*, 86 J. of
Trauma & Acute Care Surgery 11, 15 (2019), available at Declaration of John Lott,
supra note 14, Exhibit 12.

26 ³¹ Declaration of John Lott, *supra* note 14, para. 34.

27 ³² *Id.*, paras. 50-53.

28 ³³ *Id.*, para. 34.

³⁴ *Id.*, paras. 38-42.

1 state assault weapons ban periods.”³⁵ This led him to conclude that “the present
 2 study’s focus on mass shootings shows the effectiveness of these gun control
 3 measures in reducing murders due to mass shootings.”³⁶ Lott takes issue with this
 4 study because its data is drawn from the *Mother Jones* database of mass shootings,
 5 which he finds to be “arbitrarily selective in its data collection” and, therefore,
 6 “problematic.”³⁷ (The “problematic” nature of the *Mother Jones* dataset did not
 7 prevent Lott from using it as one of the data sources for his own analysis that he
 8 undertakes later in his Declaration at paras. 50-53.) Lott also criticizes the 2015
 9 Gius study for not observing the rate at which assault weapons were employed (as a
 10 percentage of all firearms used) in a mass shooting. But as will be shown below,
 11 this is a flawed criticism that displays a limited understanding of how regulations
 12 can impact outcomes.³⁸

13 38. The last study on the effectiveness of the federal AWB that Lott
 14 dismisses is that from my book *Rampage Nation*.³⁹ To repeat the findings reported
 15 above (para. 23), I found that, when compared to the 10-year period immediately
 16 before the 1994 AWB, the 10-year period that the federal ban was in effect
 17 corresponded with a 37% reduction in gun massacre incidents and a 43% reduction
 18 in gun massacre deaths. After the AWB expired, the 10-year period that
 19 immediately followed corresponded with a 183% increase in gun massacre
 20 incidents and a 239% increase in gun massacre deaths. Even after accounting for
 21 population growth, these trajectories in gun massacre violence remain consistent.
 22

23 ³⁵ Mark Gius, *The Impact of State and Federal Assault Weapons Bans on Public*
 24 *Mass Shootings*, 22 Applied Economics Letters 281, 283 (2015), available at
 Declaration of John Lott, *supra* note 14, Exhibit 13.

25 ³⁶ *Id.*

26 ³⁷ Declaration of John Lott, *supra* note 14, para. 40.

27 ³⁸ *Id.*, para. 38. Lott also leveled a similar criticism against the 2019 DiMaggio
 study. *Id.*, para. 35.

28 ³⁹ *Id.*, paras. 43-53.

1 As Lott notes, the evidence from my research has been used by members of
2 Congress to propose a new federal assault weapons ban.⁴⁰

3 39. Lott levels three criticisms against my work: (1) I only analyzed high-
4 fatality mass shootings, resulting in six or more fatalities (not including the
5 gunmen), as opposed to a lower threshold of fatalities; (2) I analyzed all categories
6 of mass shooting, regardless of motive or location, as opposed to only those that
7 were public rampages that targeted random victims; and (3) I employed a time-
8 series analysis.

9 40. The first two criticisms speak to my outcome variable, so I will
10 address them together. Lott contends:

11
12 In forming his analysis and conclusions, Klarevas limits his research to
13 shootings with 6 or more fatalities. *I don't know of any other study that does*
14 *this, and Klarevas doesn't provide an explanation. Nor does he explain why*
15 *he lumps in public shootings with gang shootings, failing to draw any*
16 *distinction.* These factors single out Klarevas' analysis as no other studies
17 use these limitations or fail to make such distinctions.⁴¹

18 41. Just in this short, three-sentence statement, Lott makes several
19 inaccurate statements. First, Lott claims that the he is unaware of “any other study”
20 that uses six fatalities as a threshold for studying mass-scale gun violence. Yet, in
21 the sentence immediately preceding this statement, Lott discusses an analysis by
22 John Donohue and Theodora Boulouta which employed the six-fatality threshold as
23 one of its measures.⁴² And there have been other studies that have used six
24 fatalities as a measure as well.⁴³ Second, Lott claims that I do not “provide an

24 ⁴⁰ *Id.*, para. 44.

25 ⁴¹ *Id.*, para. 43 (emphasis added).

26 ⁴² *Id.*

27 ⁴³ Klarevas et al., *supra* note 2; Gary Kleck, Targeting Guns: Firearms and Their
28 Control (1997); Sherry Towers et al., *Temporal Trends in Public Mass Shootings:
High-Capacity Magazines Significantly Increase Fatality Counts, and Are
Becoming More Prevalent*, medRxiv (2019), available at

1 explanation” for why I employed a six-fatality threshold. I do, however, make the
 2 case in my book that gun massacres are a unique subset of mass shootings.⁴⁴ In
 3 short, gun massacres are the deadliest category of mass shootings. As such, they
 4 deserve particular attention. Third, Lott claims that I lump together all gun
 5 massacres (despite differences in their motives) without drawing any distinctions.
 6 This, too, is something that I discussed at length in Chapter Two of my book, where
 7 I argued that high-fatality mass shootings are troubling, regardless of motive or
 8 target.⁴⁵ Indeed, legislatures that enact laws seek to prevent all such large-scale acts
 9 of firearm violence, not just the ones in public that target random victims. Fourth,
 10 Lott claims that “no other studies use these limitations or fail to make such
 11 distinctions.” Again, there are several studies that treat mass shootings as incidents
 12 broader than merely what Lott refers to as “public mass shootings.”⁴⁶

13 42. The third criticism that Lott levels against my work is that it employs a
 14 time-series approach. According to Lott, “Few academics would make the types of
 15 comparisons that Klarevas makes.”⁴⁷ Contrary to this assertion, Lott in his own
 16 Declaration cites several time-series analyses undertaken by the following scholars:
 17 Christopher Koper, Daniel Woods, Jeffrey Roth, William Johnson, Jordan Nichols,
 18 Ambrozone Ayers, Natalie Mullins, Charles DiMaggio, Jacob Avraham, Cherisse
 19 Berry, Marko Bukur, Justin Feldman, Michael Klein, Noor Shah, Manish Tandon,
 20 Spiros Frangos, John Donohue, Theodora Boulouta, and James Alan Fox. The

21
 22 <https://www.medrxiv.org/content/10.1101/2019.12.12.19014738v1> (last accessed
 23 January 13, 2020).

24 ⁴⁴ Klarevas, *supra* note 1; *see also* Klarevas et al., *supra* note 2.

25 ⁴⁵ Klarevas, *supra* note 1, at 31-48.

26 ⁴⁶ Klarevas et al., *supra* note 2; Reeping et al., *supra* note 20; Marisa Booty et al.,
 27 *Describing a ‘Mass Shooting’: The Role of Databases in Understanding Burden*,
 6 Injury Epidemiology (2019), available at
 28 <https://injejournal.biomedcentral.com/articles/10.1186/s40621-019-0226-7> (last
 accessed January 13, 2020).

⁴⁷ Declaration of John Lott, *supra* note 14, para. 45.

bottom line is that employing a time-series analysis is a legitimate methodological practice. In fact, Lott even cites the 2004 Koper report, which relies in part on time-series analyses to assess trends affected by the 1994 federal AWB, as a credible study in support of his argument.⁴⁸ Perhaps the legitimacy of this methodology explains why Lott, himself, employs it for purposes of the analysis he performs in his Declaration.⁴⁹

43. In addition, Lott makes inaccurate statements in his Declaration concerning mass-casualty violence and how weapons restrictions can function to reduce such violence. For starters, Lott suggests that small differences in the number of incidents before, during, and after the federal AWB are not “large enough to prove that the ban had any impact on the frequency of attacks.”⁵⁰ Extreme events are incidents that do not happen frequently, but, when they do occur, they have tremendous consequences. To put it in simple terms, the Oklahoma City and the September 11 terrorist attacks were both extreme events. No credible scholar would judge post-9/11 counter-terrorism policies as ineffective because the decrease in such extreme terrorist attacks amounted to only two fewer incidents—from two to zero—in the years since 2001. Given the nature of extreme events, like gun massacres, a small decrease in the number of such incidents do matter, especially to the numerous lives saved that such decreases might represent.

44. Lott also argues that “if assault weapons bans reduced these attacks [i.e., gun massacres], the share of attacks committed with ‘assault weapons’ should have decreased.”⁵¹ Lott is suggesting that the number of gun massacres involving assault weapons as a percentage or share of all gun massacres must go down

⁴⁸ *Id.*, paras. 19-23.

⁴⁹ *Id.*, paras. 50-53.

⁵⁰ *Id.*, para. 49.

⁵¹ *Id.*, para. 46.

1 substantially in order to establish that an assault weapons ban was effective.
2 Furthermore, Lott is implying that, should an assault weapons ban be repealed,
3 establishing its effectiveness would depend on showing that the share of gun
4 massacres involving assault weapons relative to all gun massacres increased. These
5 assertions are offered without any sound logical or empirical basis. In particular,
6 Lott fails to address recognized phenomena in the academic literature (e.g.,
7 spillover effects and substitution effects) that capture how regulations can lead to
8 additional benefits, including reductions in different forms of mass-casualty firearm
9 violence. Such a dynamic could explain why the federal AWB was effective while,
10 at the same time, the share of gun massacres involving assault weapons, as a
11 percentage of all gun massacres, remained constant.

12 45. There are also empirical grounds for rejecting Lott's claims regarding
13 patterns and trends related to the federal AWB. Specifically, he uses faulty data in
14 his analysis of gun massacres before, during, and after the AWB. To provide one
15 example, in the 10-year period following the AWB (September 13, 2004, to
16 September 12, 2014), Lott states that there were 35 gun massacres, 5 of which
17 involved assault weapons. He then calculates the share of incidents involving
18 assault weapons to be 14% (5 divided by 35 equals 0.14). Actually, there were 34
19 gun massacres during that timeframe, 8 of which involved assault weapons. In
20 other words, the share was 24% (8 divided by 34 equals 0.24). Lott's errors result
21 in a significant undercount of the share of incidents involving assault weapons
22 relative to all incidents. Moreover, his mistakes are not limited to the post-AWB
23 timeframe. Lott's analysis of gun massacres occurring in the 10-year periods
24 before and during the AWB also contains incorrect data points. Despite these
25 errors, Lott's data (as presented in his Declaration) still show that gun massacres
26 involving assault weapons went down after the AWB went into effect, only to go
27 up after the AWB expired.
28

1 46. When the studies and underlying data are analyzed in a comprehensive
2 and accurate manner, the outcome is clear: there is ample evidence to reasonably
3 conclude that assault weapons bans reduce gun massacres and save lives.
4

5 **III. SUMMARY**

6

7 47. It is my professional opinion, based upon my extensive review and
8 analysis of data from the past four decades, that (1) gun massacres involving six or
9 more fatalities presently pose the deadliest criminal threat, in terms of individual
10 acts of intentional violence, to the safety and security of American society in the
11 post-9/11 era, and the problem is growing nationwide; (2) gun massacres involving
12 assault weapons, on average, have resulted in a substantially larger loss of life than
13 similar incidents that did not involve assault weapons; and (3) jurisdictions that
14 restrict the possession of assault weapons experience fewer gun massacres, per
15 capita, than jurisdictions that do not restrict assault weapons. Based on these
16 findings, it is my opinion that restrictions on assault weapons have the potential to
17 significantly reduce the frequency and lethality of gun massacres.

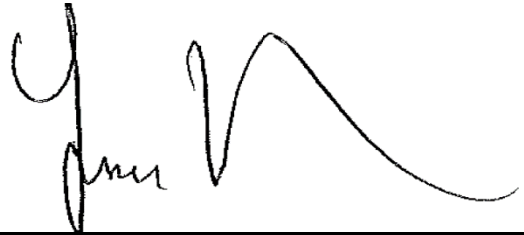
18 48. The main purpose of an assault weapons ban is to restrict the
19 availability of assault weapons. The rationale is that, if there are fewer assault
20 weapons in circulation, then potential mass shooters will either be dissuaded from
21 attacking or they will be forced to use less-lethal firearms, resulting in fewer lives
22 lost. The epidemiological data buttress this line of reasoning, supporting the
23 California legislature's determination that restricting civilian access to assault
24 weapons will enhance public safety.

25 49. While imposing constraints on assault weapons will not prevent all
26 future mass shootings, the data suggest that legislative efforts to deny gunmen
27 access to assault weapons should result in a significant number of lives being saved.
28

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed in New York, New York, on January 22, 2020.

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A handwritten signature in black ink, appearing to read 'Louis Klarevas', is written over a horizontal line. The signature is stylized with a large 'L' and a prominent 'K'.

Louis Klarevas

EXHIBIT 1

Louis J. Klarevas
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Education

Ph.D. International Relations, 1999
School of International Service
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B.A. Political Science, *Cum Laude*, 1989
School of Arts and Sciences
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Current Position

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Experience

Academic Experience (Presented in Academic Years)

Research Professor, Teachers College, Columbia University, New York, NY, 2018-

Associate Lecturer, Department of Global Affairs, University of Massachusetts – Boston,
Boston, MA, 2015-2020

Senior Fulbright Scholar (Security Studies), Department of European and International Studies,
University of Macedonia, Thessaloniki, Greece, 2011-2012

Founder and Coordinator, Graduate Transnational Security Program, Center for Global Affairs, New York University, New York, NY, 2009-2011

Faculty Affiliate, A. S. Onassis Program in Hellenic Studies, New York University, New York, NY, 2007-2011

Clinical Faculty, Center for Global Affairs, New York University, New York, NY, 2006-2011

Adjunct Professor, Center for Global Affairs, New York University, New York, NY, 2004-2006

Assistant Professor of Political Science, City University of New York – College of Staten Island, Staten Island, NY, 2003-2006

Associate Fellow, European Institute, London School of Economics and Political Science, London, England, UK, 2003-2004

Defense Analysis Research Fellow, London School of Economics and Political Science, London, England, UK, 2002-2004

Visiting Assistant Professor of Political Science and International Affairs, George Washington University, Washington, DC, 1999-2002

Adjunct Professor of Political Science, George Washington University, Washington, DC, 1998-1999

Adjunct Professor of International Relations, School of International Service, American University, Washington, DC, 1994-1995

Dean's Scholar, School of International Service, American University, Washington, DC, 1989-1992

Professional Experience (Presented in Calendar Years)

Expert for State of California, *Miller v. Becerra*, United States District Court for Southern District of California, Case Number 19-cv-1537-BEN-JLB, San Diego, CA, 2019-

Expert for Plaintiffs, *Ward et al. v. Academy Sports + Outdoor*, District Court Bexar County, Texas, 224th Judicial District, Cause Number 2017CI23341, Bexar County, TX, 2019-

Opinion Contributor, *New York Daily News*, New York, NY, 2017-

Expert for State of California, *Duncan v. Becerra*, United States District Court for Southern District of California, Case Number 17-cv-1017-BEN-JLB, San Diego, CA, 2017-

Expert for State of California, *Wiese v. Becerra*, United States District Court for Eastern District of California, Case Number 17-cv-00903-WBS-KJN, Sacramento, CA, 2017-

Expert for State of Colorado, *Rocky Mountain Gun Owners v. Hickenlooper*, District Court for County and City of Denver, Colorado, Case Number 2013CV33879, Denver, CO, 2016-2017

Consultant, National Joint Terrorism Task Force, Federal Bureau of Investigation, Washington, DC, 2015

Writer, Prometheus Books, Amherst, NY, 2012-2015

Consultant, Academy for International Conflict Management and Peacebuilding, United States Institute of Peace, Washington, DC, 2008-2009

Consultant, United States Institute of Peace, Washington, DC, 2005

Research Associate, United States Institute of Peace, Washington, DC, 1992-1998

Faculty Advisor, National Youth Leadership Forum, Washington, DC, 1992

Courses Taught

Graduate

Counter-Terrorism and Homeland Security
International Political Economy
International Politics in a Post-Cold War Era
International Security
Machinery and Politics of American Foreign Policy
Role of the United States in World Affairs
Security Policy
Theories of International Politics
Transnational Security
Transnational Terrorism
United States Foreign Policy

Undergraduate

American Government and Politics
European-Atlantic Relations
International Political Economy
International Relations
Transnational Terrorism
United States Foreign Policy

Books

Rampage Nation: Securing America from Mass Shootings (2016)

Scholarship

“The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990-2017,” *American Journal of Public Health*, November 2019 (co-authored with Andrew Conner and David Hemenway)

“Changes in U.S. Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban,” *Journal of Trauma and Acute Care Surgery*, forthcoming (correspondence)

Firearms on College Campuses: Research Evidence and Policy Implications, report prepared by the Johns Hopkins University Center for Gun Policy and Research for the Association of American Universities, October 2016 (co-authored with Daniel W. Webster, John J. Donohue, et al.)

“No Relief in Sight: Barring *Bivens* Suits in Torture Cases,” *Presidential Studies Quarterly*, June 2013

Review of James Edward Miller’s *The United States and the Making of Modern Greece: History and Power, 1950-1974*, *Presidential Studies Quarterly*, June 2012 (book review)

“Trends in Terrorism Since 9/11,” *Georgetown Journal of International Affairs*, Winter/Spring 2011

“The Death Penalty Should Be Decided Only Under a Specific Guideline,” in Christine Watkins, ed., *The Ethics of Capital Punishment* (Cengage/Gale Publishers, 2011)

Saving Lives in the ‘Convoy of Joy’: Lessons for Peace-Keeping from UNPROFOR, United States Institute of Peace Case Study, 2009

“Casualties, Polls and the Iraq War,” *International Security*, Fall 2006 (correspondence)

“The CIA Leak Case Indicting Vice President Cheney’s Chief of Staff,” *Presidential Studies Quarterly*, June 2006

“Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup,” *Diplomatic History*, June 2006

“Greeks Bearing Consensus: An Outline for Increasing Greece’s Soft Power in the West,” *Mediterranean Quarterly*, Summer 2005

“W Version 2.0: Foreign Policy in the Second Bush Term,” *The Fletcher Forum of World Affairs*, Summer 2005

“Can You Sue the White House? Opening the Door for Separation of Powers Immunity in *Cheney v. District Court*,” *Presidential Studies Quarterly*, December 2004

“Political Realism: A Culprit for the 9/11 Attacks,” *Harvard International Review*, Fall 2004

Greeks Bearing Consensus: An Outline for Increasing Greece’s Soft Power in the West, Hellenic Observatory Discussion Paper 18, London School of Economics, November 2004

Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup, Hellenic Observatory Discussion Paper 15, London School of Economics, February 2004

“Not a Divorce,” *Survival*, Winter 2003-2004 (correspondence)

“Media Impact,” in Mark Rozell, ed., *The Media and American Politics: An Introduction* (Lanham, MD: Rowman & Littlefield, 2003)

“The Surrender of Alleged War Criminals to International Tribunals: Examining the Constitutionality of Extradition via Congressional-Executive Agreement,” *UCLA Journal of International Law and Foreign Affairs*, Fall/Winter 2003

“The Constitutionality of Congressional-Executive Agreements: Insights from Two Recent Cases,” *Presidential Studies Quarterly*, June 2003

“The ‘Essential Domino’ of Military Operations: American Public Opinion and the Use of Force,” *International Studies Perspectives*, November 2002

“The Polls–Trends: The United States Peace Operation in Somalia,” *Public Opinion Quarterly*, Winter 2001

American Public Opinion on Peace Operations: The Cases of Somalia, Rwanda, and Haiti, University of Michigan Dissertation Services, 1999

“Turkey’s Right v. Might Dilemma in Cyprus: Reviewing the Implications of *Loizidou v. Turkey*,” *Mediterranean Quarterly*, Spring 1999

“An Outline of a Plan Toward a Comprehensive Settlement of the Greek-Turkish Dispute,” in Vangelis Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*, Boulder, CO: Westview Press, 1998 (co-authored with Theodore A. Couloumbis)

“Prospects for Greek-Turkish Reconciliation in a Changing International Setting,” in Robert L. Pfaltzgraff and Dimitris Keridis, eds., *Security in Southeastern Europe and the U.S.-Greek Relationship*, London: Brassey’s, 1997 (co-authored with Theodore A. Couloumbis)

“Prospects for Greek-Turkish Reconciliation in a Changing International Setting,” in Tozun Bahcheli, Theodore A. Couloumbis, and Patricia Carley, eds., *Greek-Turkish Relations and U.S. Foreign Policy: Cyprus, the Aegean, and Regional Stability*, Washington, D.C.: U.S. Institute of Peace, 1997 (co-authored with Theodore A. Couloumbis)

“Structuration Theory in International Relations,” *Swords & Ploughshares*, Spring 1992

Commentaries and Correspondence

“If the Assault Weapons Ban ‘Didn’t Work,’ Then Why Does the Evidence Suggest It Saved Lives?” *Los Angeles Times*, March 11, 2018 (correspondence)

“London and the Mainstreaming of Vehicular Terrorism,” *The Atlantic*, June 4, 2017 (co-authored with Colin P. Clarke)

“Almost Every Fatal Terrorist Attack in America since 9/11 Has Involved Guns.” *Vice*, December 4, 2015

“Firearms Have Killed 82 of the 86 Victims of Post-9/11 Domestic Terrorism,” *The Trace*, June 30, 2015

“International Law and the 2012 Presidential Elections,” Vitoria Institute, March 24, 2012

“Al Qaeda Without Bin Laden,” CBS News *Opinion*, May 2, 2011

“Fuel, But Not the Spark,” *Zocalo Public Square*, February 16, 2011

“After Tucson, Emotions Run High,” *New York Times*, January 12, 2011 (correspondence)

“WikiLeaks, the Web, and the Need to Rethink the Espionage Act,” *The Atlantic*, November 9, 2010

“Deprogramming Jihadis,” *New York Times Magazine*, November 23, 2008 (correspondence)

“Food: An Issue of National Security,” *Forbes* (Forbes.com), October 25, 2008

“An Invaluable Opportunity for Greece To Increase Its Standing and Influence on the World Stage,” *Kathimerini* (Greece), January 13, 2005

“How Many War Deaths Can We Take?” *Newsday*, November 7, 2003

“Down But Not Out,” London School of Economics Iraq War Website, April 2003

“Four Half-Truths and a War,” *American Reporter*, April 6, 2003

“The Greek Bridge between Old and New Europe,” *National Herald*, February 15-16, 2003

“Debunking a Widely-Believed Greek Conspiracy Theory,” *National Herald*, September 21-22, 2002

“Debunking of Elaborate Media Conspiracies an Important Trend,” *Kathimerini* (Greece), September 21, 2002 [Not Related to September 21-22, 2002, *National Herald* Piece with Similar Title]

“Cold Turkey,” *Washington Times*, March 16, 1998

“Make Greece and Turkey Behave,” *International Herald Tribune*, January 3, 1998

“If This Alliance Is to Survive . . .,” *Washington Post*, January 2, 1998

“Defuse Standoff on Cyprus,” *Defense News*, January 27-February 2, 1997

“Ukraine Holds Nuclear Edge,” *Defense News*, August 2-8, 1993

Commentaries Written for *New York Daily News* –

<https://www.nydailynews.com/authors/?author=Louis+Klarevas>

“Only as Strong as Our Weakest Gun Laws: The Latest Mass Shooting Makes a Powerful Case for Federal Action,” November 8, 2018

“What to Worry, and not Worry, About: The Thwarted Pipe-Bomb Attacks Point to Homeland Security Successes and Vulnerabilities,” October 25, 2018

“After the Santa Fe Massacre, Bury the ‘Good Guy with a Gun’ Myth: Armed Staffers Won’t Deter Shooters or Keep Kids Safe,” May 22, 2018

“It’s the Guns (and Ammo), Stupid: Dissuading Killers and Hardening Targets Matter Too, But Access to Weapons Matters Most,” February 18, 2018

“The Texas Shooting Again Reveals Inadequate Mental-Health Help in the U.S. Military,” November 7, 2017

“Why Mass Shootings Are Getting Worse: After Vegas, We Urgently Must Fix Our Laws,” October 2, 2017

“N.Y. Can Lead the Nation in Fighting Child Sex Trafficking,” April 21, 2009 (co-authored with Ana Burdsall-Morse)

“Crack Down on Handguns – They’re a Tool of Terror, Too,” October 25, 2007

Commentaries Written for *The Huffington Post* – www.huffingtonpost.com/louis-klarevas

“Improving the Justice System Following the Deaths of Michael Brown and Eric Garner,” December 4, 2014

“American Greengemony: How the U.S. Can Help Ukraine and the E.U. Break Free from Russia’s Energy Stranglehold,” March 6, 2014

“Guns Don’t Kill People, Dogs Kill People,” October 17, 2013

“Romney the Liberal Internationalist?” October 23, 2012

“Romney’s Unrealistic Foreign Policy Vision: National Security Funded by Money Growing Trees,” October 10, 2012

“Do the Wrong Thing: Why Penn State Failed as an Institution,” November 14, 2011

“Holding Egypt’s Military to Its Pledge of Democratic Reform,” February 11, 2011

“The Coming Twivolutions? Social Media in the Recent Uprisings in Tunisia and Egypt,” January 31, 2011

“Scholarship Slavery: Does St. John’s ‘Dean of Mean’ Represent a New Face of Human Trafficking?” October 6, 2010

“Misunderstanding Terrorism, Misrepresenting Islam,” September 21, 2010

“Bombing on the Analysis of the Times Square Bomb Plot,” May 5, 2010

“Do the Hutaree Militia Members Pose a Terrorist Threat?” May 4, 2010

“Addressing Mexico’s Gun Violence One Extradition at a Time,” March 29, 2010

“Terrorism in Texas: Why the Austin Plane Crash Is an Act of Terror,” February 19, 2010

“Securing American Primacy by Tackling Climate Change: Toward a National Strategy of Greengemony,” December 15, 2009

“Traffickers Without Borders: A ‘Journey’ into the Life of a Child Victimized by Sex Trafficking,” November 17, 2009

“Beyond a Lingering Doubt: It’s Time for a New Standard on Capital Punishment,” November 9, 2009

“It’s the Guns Stupid: Why Handguns Remain One of the Biggest Threats to Homeland Security,” November 7, 2009

“Obama Wins the 2009 Nobel Promise Prize,” October 9, 2009

Commentaries for *Foreign Policy* – www.foreignpolicy.com

“The White House’s Benghazi Problem,” September 20, 2012

“Greeks Don’t Want a Grexit,” June 14, 2012

“The Earthquake in Greece,” May 7, 2012

“The Idiot Jihadist Next Door,” December 1, 2011

“Locked Up Abroad,” October 4, 2011

Commentaries for *The New Republic* – www.tnr.com/users/louis-klarevas

“What the U.N. Can Do To Stop Getting Attacked by Terrorists,” September 2, 2011

“Is It Completely Nuts That the British Police Don’t Carry Guns? Maybe Not,” August 13, 2011

“How Obama Could Have Stayed the Execution of Humberto Leal Garcia,” July 13, 2011

“After Osama bin Laden: Will His Death Hasten Al Qaeda’s Demise?” May 2, 2011

“Libya’s Stranger Soldiers: How To Go After Qaddafi’s Mercenaries,” February 28, 2011

“Closing the Gap: How To Reform U.S. Gun Laws To Prevent Another Tucson,” January 13, 2011

“Easy Target,” June 13, 2010

“Death Be Not Proud,” October 27, 2003 (correspondence)

Legal Analyses Written for *Writ* – writ.news.findlaw.com/contributors.html#klarevas

“Human Trafficking and the Child Protection Compact Act of 2009,” *Writ* (FindLaw.com), July 15, 2009 (co-authored with Christine Buckley)

“Can the Justice Department Prosecute Reporters Who Publish Leaked Classified Information? Interpreting the Espionage Act,” *Writ* (FindLaw.com), June 9, 2006

“Will the Precedent Set by the Indictment in a Pentagon Leak Case Spell Trouble for Those Who Leaked Valerie Plame’s Identity to the Press?” *Writ* (FindLaw.com), August 15, 2005

“Jailing Judith Miller: Why the Media Shouldn’t Be So Quick to Defend Her, and Why a Number of These Defenses Are Troubling,” *Writ* (FindLaw.com), July 8, 2005

“The Supreme Court Dismisses the Controversial Consular Rights Case: A Blessing in Disguise for International Law Advocates?” *Writ* (FindLaw.com), June 6, 2005 (co-authored with Howard S. Schiffman)

“The Decision Dismissing the Lawsuit against Vice President Dick Cheney,” *Writ* (FindLaw.com), May 17, 2005

“The Supreme Court Considers the Rights of Foreign Citizens Arrested in the United States,” *Writ* (FindLaw.com), March 21, 2005 (co-authored with Howard S. Schiffman)

Columns Written (in Greek) for *To Vima* Newspaper (Athens)

“Time to Pay,” August 2003

“Does Turkey Have an Ulterior Motive?” July 2003

“Will They Make Up?” June 2003

“Don’t Take the Bait,” May 2003

“If the Cheers Turn to Jeers,” April 2003

“The Power of a Niche Identity,” April 2003

“If You Can’t Beat Them, Join Them,” April 2003

“Show Me the Euros,” March 2003

Presentations and Addresses

In addition to the presentations listed below, I have made close to one hundred media appearances, book events, and educational presentations (beyond lectures for my own classes)

“Addressing Mass Shootings in Public Health: Lessons from Security Studies,” Teachers College, Columbia University, November 25, 2019

“Rampage Nation: Securing America from Mass Shootings,” Swarthmore College, October 24, 2019

“Rampage Nation: Securing America from Mass Shootings,” University of Pennsylvania, February 9, 2018

“Treating Mass Shootings for What They Really Are: Threats to American Security,” Framingham State University, October 26, 2017

“Book Talk: Rampage Nation,” Teachers College, Columbia University, October 17, 2017

Participant, Roundtable on Assault Weapons and Large-Capacity Magazines, Annual Conference on Second Amendment Litigation and Jurisprudence, Law Center to Prevent Gun Violence, October 16, 2017

“Protecting the Homeland: Tracking Patterns and Trends in Domestic Terrorism,” address delivered to the annual meeting of the National Joint Terrorism Task Force, June 2015

“Sovereign Accountability: Creating a Better World by Going after Bad Political Leaders,” address delivered to the Daniel H. Inouye Asia-Pacific Center for Security Studies, November 2013

“Game Theory and Political Theater,” address delivered at the School of Drama, State Theater of Northern Greece, May 2012

“Holding Heads of State Accountable for Gross Human Rights Abuses and Acts of Aggression,” presentation delivered at the Michael and Kitty Dukakis Center for Public and Humanitarian Service, American College of Thessaloniki, May 2012

Chairperson, Cultural Enrichment Seminar, Fulbright Foundation – Southern Europe, April 2012

Participant, Roundtable on “Did the Intertubes Topple Hosni?” Zócalo Public Square, February 2011

Chairperson, Panel on Democracy and Terrorism, annual meeting of the International Security Studies Section of the International Studies Association, October 2010

“Trends in Terrorism Within the American Homeland Since 9/11,” paper to be presented at the annual meeting of the International Security Studies Section of the International Studies Association, October 2010

Panelist, “In and Of the World,” Panel on Global Affairs in the 21st Century, Center for Global Affairs, New York University, March 2010

Moderator, “Primacy, Perils, and Players: What Does the Future Hold for American Security?” Panel of Faculty Symposium on Global Challenges Facing the Obama Administration, Center for Global Affairs, New York University, March 2009

“Europe’s Broken Border: The Problem of Illegal Immigration, Smuggling and Trafficking via Greece and the Implications for Western Security,” presentation delivered at the Center for Global Affairs, New York University, February 2009

“The Dangers of Democratization: Implications for Southeast Europe,” address delivered at the University of Athens, Athens, Greece, May 2008

Participant, “U.S. National Intelligence: The Iran National Intelligence Estimate,” Council on Foreign Relations, New York, April 2008

Moderator, First Friday Lunch Series, “Intelligence in the Post-9/11 World: An Off-the-Record Conversation with Dr. Joseph Helman (U.S. Senior National Intelligence Service),” Center for Global Affairs, New York University, March 2008

Participant, “U.S. National Intelligence: Progress and Challenges,” Council on Foreign Relations, New York, March 2008

Moderator, First Friday Lunch Series, “Public Diplomacy: The Steel Backbone of America’s Soft Power: An Off-the-Record Conversation with Dr. Judith Baroody (U.S. Department of State),” Center for Global Affairs, New York University, October 2007

“The Problems and Challenges of Democratization: Implications for Latin America,” presentation delivered at the Argentinean Center for the Study of Strategic and International Relations Third Conference on the International Relations of South America (IBERAM III), Buenos Aires, Argentina, September 2007

“The Importance of Higher Education to the Hellenic-American Community,” keynote address to the annual Pan-Icarian Youth Convention, New York, May 2007

Moderator, First Friday Lunch Series, Panel Spotlighting Graduate Theses and Capstone Projects, Center for Global Affairs, New York University, April 2007

Convener, U.S. Department of State Foreign Officials Delegation Working Group on the Kurds and Turkey, March 2007

“Soft Power and International Law in a Globalizing Latin America,” round-table presentation delivered at the Argentinean Center for the Study of Strategic and International Relations Twelfth Conference of Students and Graduates of International Relations in the Southern Cone (CONOSUR XII), Buenos Aires, Argentina, November 2006

Moderator, First Friday Lunch Series, “From Berkeley to Baghdad to the Beltway: An Off-the-Record Conversation with Dr. Catherine Dale (U.S. Department of Defense),” Center for Global Affairs, New York University, November 2006

Chairperson, Roundtable on Presidential Privilege and Power Reconsidered in a Post-9/11 Era, American Political Science Association Annual Meeting, September 2006

“Constitutional Controversies,” round-table presentation delivered at City University of New York-College of Staten Island, September 2005

“The Future of the Cyprus Conflict,” address to be delivered at City University of New York College of Staten Island, April 2005

“The 2004 Election and the Future of American Foreign Policy,” address delivered at City University of New York College of Staten Island, December 2004

“One Culprit for the 9/11 Attacks: Political Realism,” address delivered at City University of New York-College of Staten Island, September 2004

“Were the Eagle and the Phoenix Birds of a Feather? The United States and the 1967 Greek Coup,” address delivered at London School of Economics, November 2003

“Beware of Europeans Bearing Gifts? Cypriot Accession to the EU and the Prospects for Peace,” address delivered at Conference on Mediterranean Stability, Security, and Cooperation, Austrian Defense Ministry, Vienna, Austria, October 2003

Co-Chair, Panel on Ideational and Strategic Aspects of Greek International Relations, London School of Economics Symposium on Modern Greece, London, June 2003

“Greece between Old and New Europe,” address delivered at London School of Economics, June 2003

Co-Chair, Panel on International Regimes and Genocide, International Association of Genocide Scholars Annual Meeting, Galway, Ireland, June 2003

“American Cooperation with International Tribunals,” paper presented at the International Association of Genocide Scholars Annual Meeting, Galway, Ireland, June 2003

“Is the Unipolar Moment Fading?” address delivered at London School of Economics, May 2003

“Cyprus, Turkey, and the European Union,” address delivered at London School of Economics, February 2003

“Bridging the Greek-Turkish Divide,” address delivered at Northwestern University, May 1998

“The CNN Effect: Fact or Fiction?” address delivered at Catholic University, April 1998

“The Current Political Situation in Cyprus,” address delivered at AMIDEAST, July 1997

“Making the Peace Happen in Cyprus,” presentation delivered at the U.S. Institute of Peace in July 1997

“The CNN Effect: The Impact of the Media during Diplomatic Crises and Complex Emergencies,” a series of presentations delivered in Cyprus (including at Ledra Palace), May 1997

“Are Policy-Makers Misreading the Public? American Public Opinion on the United Nations,” paper presented at the International Studies Association Annual Meeting, Toronto, Canada, March 1997 (with Shoon Murray)

“The Political and Diplomatic Consequences of Greece’s Recent National Elections,” presentation delivered at the National Foreign Affairs Training Center, Arlington, VA, September 1996

“Prospects for Greek-Turkish Reconciliation,” presentation delivered at the U.S. Institute of Peace Conference on Greek-Turkish Relations, Washington, D.C., June, 1996 (with Theodore A. Couloubis)

“Greek-Turkish Reconciliation,” paper presented at the Karamanlis Foundation and Fletcher School of Diplomacy Joint Conference on The Greek-U.S. Relationship and the Future of Southeastern Europe, Washington, D.C., May, 1996 (with Theodore A. Couloubis)

“The Path toward Peace in the Eastern Mediterranean and the Balkans in the Post-Cold War Era,” paper presented at the International Studies Association Annual Meeting, San Diego, CA, March, 1996 (with Theodore A. Couloubis)

“Peace Operations: The View from the Public,” paper presented at the International Studies Association Annual Meeting, San Diego, CA, March, 1996

Chairperson, Roundtable on Peace Operations, International Security Section of the International Studies Association Annual Meeting, Rosslyn, VA, October, 1995

“Chaos and Complexity in International Politics: Epistemological Implications,” paper presented at the International Studies Association Annual Meeting, Washington, D.C., March, 1994

“At What Cost? American Mass Public Opinion and the Use of Force Abroad,” paper presented at the International Studies Association Annual Meeting, Washington, D.C., March, 1994 (with Daniel B. O'Connor)

“American Mass Public Opinion and the Use of Force Abroad,” presentation delivered at the United States Institute of Peace, Washington, D.C., February, 1994 (with Daniel B. O'Connor)

“For a Good Cause: American Mass Public Opinion and the Use of Force Abroad,” paper presented at the Annual Meeting of the Foreign Policy Analysis/Midwest Section of the International Studies Association, Chicago, IL, October, 1993 (with Daniel B. O'Connor)

“American International Narcotics Control Policy: A Critical Evaluation,” presentation delivered at the American University Drug Policy Forum, Washington, D.C., November, 1991

“American National Security in the Post-Cold War Era: Social Defense, the War on Drugs, and the Department of Justice,” paper presented at the Association of Professional Schools of International Affairs Conference, Denver, CO, February, 1991

Referee for Grant Organizations, Peer-Reviewed Journals, and Book Publishers

National Science Foundation, Division of Social and Economic Sciences

American Journal of Public Health

American Political Science Review

British Medical Journal (BMJ)

Comparative Political Studies

Journal of Public and International Affairs

Millennium

Political Behavior

Presidential Studies Quarterly

Violence and Victims

Brill Publishers

Johns Hopkins University Press

Routledge

Service to University, Profession, and Community

Contributing Lecturer, Johns Hopkins University, Massive Open Online Course on Evidence-Based Gun Violence Research, Funded by David and Lucile Packard Foundation, 2019

Expert for Victims of Sutherland Springs, TX, Mass Shooting, 2019-

Member, Group of Gun Violence Experts, *New York Times* Upshot Survey, 2017

Expert for State of California, 2017-

Expert for State of Colorado, 2016-2017

Member, Guns on Campus Assessment Group, Johns Hopkins University and Association of American Universities, 2016

Member, Fulbright Selection Committee, Fulbright Foundation, Athens, Greece, 2012

Faculty Advisor, Global Affairs Graduate Society, New York University, 2009-2011

Founder and Coordinator, Graduate Transnational Security Studies, Center for Global Affairs, New York University, 2009-2011

Organizer, Annual Faculty Symposium, Center for Global Affairs, New York University, 2009

Member, Faculty Search Committees, Center for Global Affairs, New York University, 2007-2009

Member, Graduate Program Director Search Committee, Center for Global Affairs, New York University, 2008-2009

Developer, Transnational Security Studies, Center for Global Affairs, New York University, 2007-2009

Participant, Council on Foreign Relations Special Series on National Intelligence, New York, 2008

Member, Graduate Certificate Curriculum Committee, Center for Global Affairs, New York University, 2008

Member, Faculty Affairs Committee, New York University, 2006-2008

Member, Curriculum Review Committee, Center for Global Affairs, New York University, 2006-2008

Member, Overseas Study Committee, Center for Global Affairs, New York University, 2006-2007

Participant, New York Academic Delegation to Israel, Sponsored by American-Israel Friendship League, 2006

Member, Science, Letters, and Society Curriculum Committee, City University of New York-College of Staten Island, 2006

Member, Graduate Studies Committee, City University of New York-College of Staten Island, 2005-2006

Member, Summer Research Grant Selection Committee, City University of New York-College of Staten Island, 2005

Director, College of Staten Island Association, 2004-2005

Member of Investment Committee, College of Staten Island Association, 2004-2005

Member of Insurance Committee, College of Staten Island Association, 2004-2005

Member, International Studies Advisory Committee, City University of New York-College of Staten Island, 2004-2006

Faculty Advisor, Pi Sigma Alpha National Political Science Honor Society, City University of New York-College of Staten Island, 2004-2006

Participant, World on Wednesday Seminar Series, City University of New York-College of Staten Island, 2004-2005

Participant, American Democracy Project, City University of New York-College of Staten Island, 2004

Participant, Philosophy Forum, City University of New York-College of Staten Island, 2004

Commencement Liaison, City University of New York-College of Staten Island, 2004

Member of Scholarship Committee, Foundation of Pan-Icarian Brotherhood, 2003-2005, 2009

Scholarship Chairman, Foundation of Pan-Icarian Brotherhood, 2001-2003

Faculty Advisor to the Kosmos Hellenic Society, George Washington University, 2001-2002

Member of University of Pennsylvania's Alumni Application Screening Committee, 2000-2002

Participant in U.S. Department of State's International Speakers Program, 1997

Participant in Yale University's United Nations Project, 1996-1997

Member of Editorial Advisory Board, *Journal of Public and International Affairs*, Woodrow Wilson School of Public and International Affairs, Princeton University, 1991-1993

Voting Graduate Student Member, School of International Service Rank and Tenure Committee, American University, 1990-1992

Member of School of International Service Graduate Student Council, American University, 1990-1992

Teaching Assistant for the Several Courses (World Politics, Beyond Sovereignty, Between Peace and War, Soviet-American Security Relations, and Organizational Theory) at School of International Service Graduate Student Council, American University, 1989-1992

Representative for American University at the Annual Meeting of the Association of Professional Schools of International Affairs, Denver, Colorado, 1991

Associations and Organizations (Past and Present)

Academy of Political Science

American Political Science Association

Anderson Society of American University

Carnegie Council Global Ethics Network

International Political Science Association

International Studies Association

Museum of Modern Art

New York Screenwriters Collective

Pan-Icarian Brotherhood

Pi Sigma Alpha

Sigma Nu Fraternity

Social Science Research Network

United States Department of State Alumni Network

United States Institute of Peace Alumni Association

University of Pennsylvania Alumni Association

Honors and Awards

Senior Fulbright Fellowship, 2012

Professional Staff Congress Research Grantee, City University of New York, 2004-2005

Research Assistance Award (Two Times), City University of New York-College of Staten Island, 2004

Summer Research Fellowship, City University of New York-College of Staten Island, 2004

European Institute Associate Fellowship, London School of Economics, 2003-2004

Hellenic Observatory Defense Analysis Research Fellowship, London School of Economics, 2002-2003

United States Institute of Peace Certificate of Meritorious Service, 1996

National Science Foundation Dissertation Research Grant, 1995 (declined)

Alexander George Award for Best Graduate Student Paper, Runner-Up, Foreign Policy Analysis Section, International Studies Association, 1994

Dean's Scholar Fellowship, School of International Service, American University, 1989-1992

Graduate Research and Teaching Assistantship, School of International Service, American University, 1989-1992

American Hellenic Educational Progressive Association (AHEPA) College Scholarship, 1986

Political Science Student of the Year, Wilkes-Barre Area School District, 1986

EXHIBIT 2

Excerpt from *Rampage Nation*

Table 2.1

Table 2.1. The Concept of a Mass Shooting.

Definition of a Mass Shooting:

Any violent attack that results in four or more individuals incurring gunshot wounds.

Categories of Mass Shooting:

1. *Nonfatal*
Mass shootings in which no one dies.
2. *Fatal*
Mass shootings in which at least one victim dies.
3. *High-Fatality / Gun Massacre*
Mass shootings in which six or more victims die.



Source: Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* 48 (2016).

EXHIBIT 3

Gun Massacres in the United States, 1980-2019

	Date	City	State	Deaths	Involved Assault Weapon(s)
1	1/3/1981	Delmar	IA	6	N
2	1/7/1981	Richmond	VA	6	N
3	5/2/1981	Clinton	MD	6	N
4	8/21/1981	Indianapolis	IN	6	N
5	2/17/1982	Farwell	MI	7	N
6	8/9/1982	Grand Prairie	TX	6	N
7	8/20/1982	Miami	FL	8	N
8	9/7/1982	Craig	AK	8	N
9	9/25/1982	Wilkes-Barre	PA	13	Y
10	2/18/1983	Seattle	WA	13	N
11	3/3/1983	McCarthy	AK	6	N
12	10/11/1983	College Station and Hempstead	TX	6	N
13	4/15/1984	Brooklyn	NY	10	N
14	5/19/1984	Manley Hot Springs	AK	8	N
15	6/29/1984	Dallas	TX	6	N
16	7/18/1984	San Ysidro	CA	21	Y
17	10/18/1984	Evansville	IN	6	N
18	8/20/1986	Edmond	OK	14	N
19	12/8/1986	Oakland	CA	6	Y
20	2/5/1987	Flint	MI	6	N
21	4/23/1987	Palm Bay	FL	6	Y
22	7/12/1987	Tacoma	WA	7	N
23	9/25/1987	Elkland	MO	7	N
24	12/30/1987	Algona	IA	6	N
25	2/16/1988	Sunnyvale	CA	7	N
26	9/14/1989	Louisville	KY	8	Y

	Date	City	State	Deaths	Involved Assault Weapon(s)
27	6/18/1990	Jacksonville	FL	9	N
28	1/26/1991	Chimayo	NM	7	N
29	8/9/1991	Waddell	AZ	9	N
30	10/16/1991	Killeen	TX	23	N
31	11/7/1992	Morro Bay and Paso Robles	CA	6	N
32	1/8/1993	Palatine	IL	7	N
33	5/16/1993	Fresno	CA	7	Y
34	7/1/1993	San Francisco	CA	8	Y
35	12/7/1993	Garden City	NY	6	N
36	4/20/1999	Littleton	CO	13	Y
37	7/12/1999	Atlanta	GA	6	N
38	7/29/1999	Atlanta	GA	9	N
39	9/15/1999	Fort Worth	TX	7	N
40	11/2/1999	Honolulu	HI	7	N
41	12/26/2000	Wakefield	MA	7	Y
42	12/28/2000	Philadelphia	PA	7	N
43	8/26/2002	Rutledge	AL	6	N
44	1/15/2003	Edinburg	TX	6	Y
45	7/8/2003	Meridian	MS	6	N
46	8/27/2003	Chicago	IL	6	N
47	3/12/2004	Fresno	CA	9	N
48	11/21/2004	Birchwood	WI	6	Y
49	3/12/2005	Brookfield	WI	7	N
50	3/21/2005	Red Lake	MN	9	N
51	1/30/2006	Goleta	CA	7	N
52	3/25/2006	Seattle	WA	6	N
53	6/1/2006	Indianapolis	IN	7	Y
54	12/16/2006	Kansas City	KS	6	N
55	4/16/2007	Blacksburg	VA	32	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
56	10/7/2007	Crandon	WI	6	Y
57	12/5/2007	Omaha	NE	8	Y
58	12/24/2007	Carnation	WA	6	N
59	2/7/2008	Kirkwood	MO	6	N
60	9/2/2008	Alger	WA	6	N
61	12/24/2008	Covina	CA	8	N
62	1/27/2009	Los Angeles	CA	6	N
63	3/10/2009	Kinston, Samson, and Geneva	AL	10	Y
64	3/29/2009	Carthage	NC	8	N
65	4/3/2009	Binghamton	NY	13	N
66	11/5/2009	Fort Hood	TX	13	N
67	1/19/2010	Appomattox	VA	8	Y
68	8/3/2010	Manchester	CT	8	N
69	1/8/2011	Tucson	AZ	6	N
70	7/7/2011	Grand Rapids	MI	7	N
71	8/7/2011	Copley Township	OH	7	N
72	10/12/2011	Seal Beach	CA	8	N
73	12/25/2011	Grapevine	TX	6	N
74	4/2/2012	Oakland	CA	7	N
75	7/20/2012	Aurora	CO	12	Y
76	8/5/2012	Oak Creek	WI	6	N
77	9/27/2012	Minneapolis	MN	6	N
78	12/14/2012	Newtown	CT	27	Y
79	7/26/2013	Hialeah	FL	6	N
80	9/16/2013	Washington	DC	12	N
81	7/9/2014	Spring	TX	6	N
82	9/18/2014	Bell	FL	7	N

	Date	City	State	Deaths	Involved Assault Weapon(s)
83	2/26/2015	Tyrone	MO	7	N
84	5/17/2015	Waco	TX	9	N
85	6/17/2015	Charleston	SC	9	N
86	8/8/2015	Houston	TX	8	N
87	10/1/2015	Roseburg	OR	9	N
88	12/2/2015	San Bernardino	CA	14	Y
89	2/21/2016	Kalamazoo	MI	6	N
90	4/22/2016	Piketon	OH	8	N
91	6/12/2016	Orlando	FL	49	Y
92	5/27/2017	Brookhaven	MS	8	N
93	9/10/2017	Plano	TX	8	Y
94	10/1/2017	Las Vegas	NV	58	Y
95	11/5/2017	Sutherland Springs	TX	25	Y
96	2/14/2018	Parkland	FL	17	Y
97	5/18/2018	Santa Fe	TX	10	N
98	10/27/2018	Pittsburgh	PA	11	Y
99	11/7/2018	Thousand Oaks	CA	12	N
100	5/31/2019	Virginia Beach	VA	12	N
101	8/3/2019	El Paso	TX	22	Y
102	8/4/2019	Dayton	OH	9	Y
103	8/31/2019	Midland and Odessa	TX	7	Y

Notes: Gun massacres are defined as high-fatality mass shootings resulting in 6 or more people shot to death, not including the perpetrators. A gun massacre was coded as involving an assault weapon if at least one of the firearms discharged was defined as an assault weapon in (1) the 1994 federal Assault Weapons Ban; (2) the statutes of the state where the gun massacre occurred; or (3) a legal or judicial

declaration issued by a state official. Incidents in gray shade are those incidents that occurred at a time when and in a state where legal restrictions on assault weapons were in effect.

Sources: Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016); Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings*, 109 Am. J. of Pub. Health 1754 (2019), available at *available at* <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311> (last accessed January 6, 2020); and “Past Summary Ledgers,” Gun Violence Archive, available at <https://www.gunviolencearchive.org/past-tolls> (last accessed January 21, 2020).

EXHIBIT 4

Excerpt from *Rampage Nation*

Figure 7.2

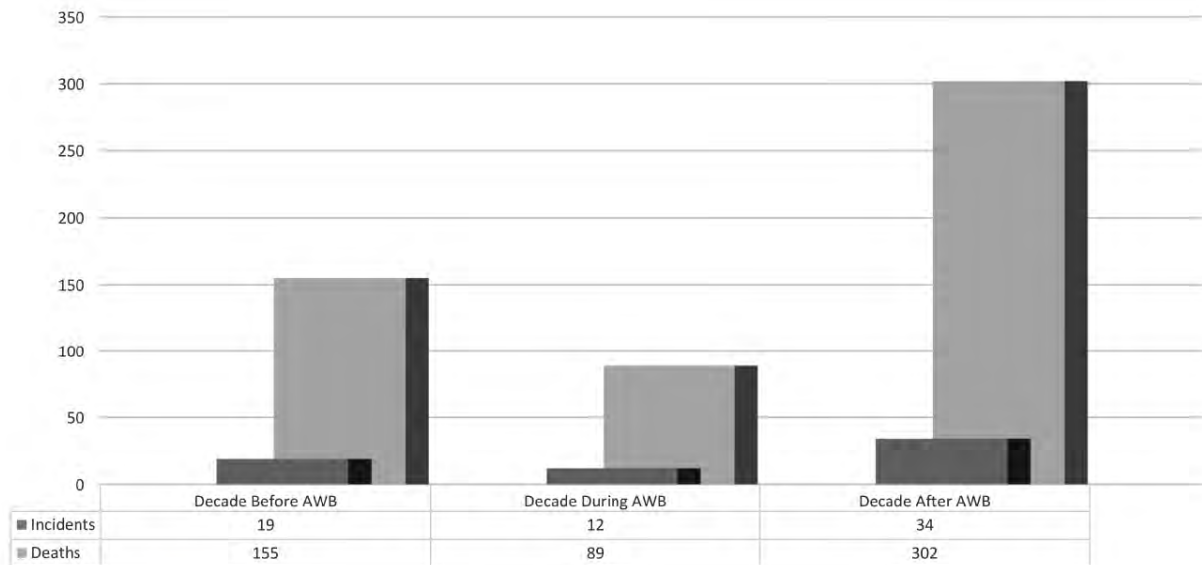


Fig. 7.2. Gun Massacres by Decade Before, During, and After the Assault Weapons Ban of 1994.

Note: The Assault Weapons Ban was in effect from September 13, 1994, through September 12, 2004.

The data are drawn from Table 3.2.

Source: Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* 242 (2016).

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JAMES MILLER, et al.,

Plaintiffs,

v.

**CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA,
et al.,**

Defendants.

19-cv-1537 BEN-JLB

**DECLARATION OF JOHN D.
ECHEVERRIA IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 6, 2020
Time: 2:00 p.m.
Courtroom: 5A
Judge: Hon. Roger T. Benitez
Trial Date: None Set
Action Filed: August 15, 2019

DECLARATION OF JOHN D. ECHEVERRIA

I, John D. Echeverria, declare:

1. I am a Deputy Attorney General with the California Department of Justice and serve as counsel to Defendants Xavier Becerra, in his official capacity as Attorney General of the State of California, and Brent E. Orick, in his official capacity as Interim Director of the Department of Justice Bureau of Firearms, in the above-captioned matter. I make this declaration in support of Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction.

2. Except as otherwise stated, I have personal knowledge of the facts set forth in this declaration, and if called upon as a witness I could testify competently as to those facts.

3. Attached hereto are true and correct copy of the following exhibits:

Exhibit	Description	Pages
1	S.B. 880 Report, 2015-2016 Reg. Sess., Assembly Committee on Public Safety (June 14, 2016)	1-12
2	Violence Policy Ctr., <i>Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use: An Analysis of Federal Bureau of Investigation and National Crime Victimization Survey Data</i> (2018)	13-31
3	Bureau of Alcohol, Tobacco & Firearms, Report and Recommendation on the Importability of Certain Semiautomatic Rifles (1989)	32-51
4	Violence Policy Ctr., <i>Key Points About Assault Weapons</i>	52-53
5	H.R. Rep. No. 103-489, Public Safety and Recreational Firearms Use Protection Act	54-100
6	Brady Ctr. to Prevent Gun Violence, <i>Assault Weapons "Mass Produced Mayhem"</i> (2008)	101-164

Exhibit	Description	Pages
7	Excerpt of United States Army, <i>Rifle Marksmanship M16/M4 - Series Weapons</i> (2008)	165-186
8	Expert Report & Declaration of Michael Mersereau, <i>Rupp v. Becerra</i> , No. 17-cv-00746-JLS-JDE (C.D. Cal. Mar. 25, 2019) (Dkt. 76-3)	187-198
9	Violence Policy Ctr., <i>The Militarization of the U.S. Civilian Firearms Market</i> (2011)	199-252
10	Bureau of Alcohol, Tobacco, Firearms & Explosives, <i>Study on the Importability of Certain Shotguns</i> (2011)	253-287
11	Colt.com, AR15A4 Advertisement	288-289
12	Colt.com, About Colt Rifles	290-292
13	Guns & Ammo (July 1981)	293-306
14	Mich. Public Acts, 1927 – No. 372	307-314
15	Mich. Public Acts, 1927 – Ch. 1052	315-317
16	Ohio General Code, 1933 – § 12819-3	318-319
17	Pub. L. No. 275, 1932 – 72d Cong., Sess. I, Chs. 465, 466	320-325
18	Robert J. Spitzer, <i>Gun Law History in the United States and Second Amendment Rights</i> , 80 Law & Contemporary Problems 55 (2017)	326-355
19	Br. of <i>Amicus Curiae</i> Everytown for Gun Safety in Supp. of Def.’s Mot. for Summ. J., <i>Rupp v. Becerra</i> , No. 8:17-cv-00746-JLS-JDE (C.D. Cal. Apr. 1, 2019) (Dkt. 82-1)	356-385
20	Christopher S. Koper et al., <i>Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of Local and National Sources</i> , 95 J. of Urban Health 313 (2017)	386-395
21	Excerpts of Bureau of Alcohol, Tobacco & Firearms, <i>Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles</i> (1998)	396-449

Exhibit	Description	Pages
22	Violence Policy Ctr., <i>“Officer Down”: Assault Weapons and the War on Law Enforcement</i> (2003)	450-479
23	Panagiotis K. Stefanopoulos et al., <i>Gunshot Wounds: A Review of Ballistics Related to Penetrating Trauma</i> , J. of Acute Disease, 178 (2014)	480-488
24	Adam Lankford & James Silver, <i>Why Have Public Mass Shootings Become More Deadly? Assessing How Perpetrators’ Motives and Methods Have Changed Over Time</i> , Criminology & Pub. Pol’y 1 (2019)	489-513
25	Excerpts of Deposition of Gary Kleck, <i>Rupp v. Becerra</i> , No. 8:17-cv-00746-JLS-JDE (C.D. Cal. Dec. 12, 2018) (Dkt. 76-15)	514-524
26	Law Ctr. to Prevent Gun Violence, <i>The California Model: Twenty Years of Putting Safety First</i> (2013)	525-533

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 23, 2020 at Los Angeles, California.

s/ John D. Echeverria

John D. Echeverria

EXHIBIT 1
TO THE DECLARATION OF JOHN D. ECHEVERRIA

Date of Hearing: June 14, 2016
Counsel: Gabriel Caswell

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 880 (Hall) – As Amended May 17, 2016

SUMMARY: Redefines what constitutes an assault weapon in order to close the bullet button loophole. Also requires registration of weapons previously not prohibited, under the new definition. Specifically, **this bill:**

- 1) Revises the definition of “assault weapon” to mean “a semiautomatic centerfire rifle, or a semiautomatic pistol that does not have a fixed magazine but has any one of those specified attributes.”
- 2) Defines “fixed magazine” to mean “an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.”
- 3) Exempts a person who possessed an assault weapon prior to January 1, 2017, if specified requirements are met.
- 4) Requires that any person who, from January 1, 2001, to December 31, 2016, lawfully possessed an assault weapon that does not have a fixed magazine, as defined, register the firearm with the Department of Justice (DOJ) before January 1, 2018.
- 5) Permits the DOJ to increase the \$20 registration fee as long as it does not exceed the reasonable processing costs of the department.
- 6) Requires registrations to be submitted electronically via the Internet utilizing a public-facing application made available by the DOJ.
- 7) Requires the registration to contain specified information, including, but not limited to, a description of the firearm that identifies it uniquely and specified information about the registrant.
- 8) Permits the DOJ to charge a fee of up to \$15 per person for registration through the internet, not to exceed the reasonable processing costs of the department to be paid and deposited, as specified, for purposes of the registration program.
- 9) Requires the DOJ to adopt regulations for the purpose of implementing those provisions and would exempt those regulations from the Administrative Procedure Act.

AG00014486

Def. Exhibit 29
Page 001128

EXISTING LAW:

- 1) Contains legislative findings and declarations that the proliferation and use of assault and .50 BMG rifles poses a threat to the health, safety, and security of all citizens of California. (Pen. Code, § 30505.)
- 2) States legislative intent to place restrictions on the use of assault weapons and .50 BMG rifles and to establish a registration and permit procedure for their lawful sale and possession. (Pen. Code, § 30505.)
- 3) Prohibits several categories of assault weapons:
 - a) Specified firearms listed by name and others listed by series (Pen. Code, § 30510);
 - b) Semiautomatic centerfire rifles or semiautomatic pistols having the capacity to accept a detachable magazine and also having one of several specified characteristics;
 - c) Semiautomatic centerfire rifles or semiautomatic pistols with a fixed magazine having the capacity to hold more than 10 rounds;
 - d) Semiautomatic centerfire rifles with an overall length of less than 30 inches;
 - e) Semiautomatic shotguns having two specified characteristics;
 - f) Semiautomatic shotguns having the capacity to accept a detachable magazine; and,
 - g) Any shotgun with a revolving cylinder. (Pen. Code, § 30515.)
- 4) Defines a "detachable magazine" as any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine. (11 Cal. Code Regs. Section 5469.)
- 5) Bans the manufacture, distribution, transportation, importation, sale, gift or loan of an assault weapon. (Pen. Code, § 30600, subd. (a).)
- 6) Makes the possession of an assault weapon a criminal offense, subject to certain exceptions. (Pen. Code, § 30605.)
- 7) Defines a ".50 BMG rifle" as "a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or a machinegun." (Pen. Code, § 30530.)
- 8) Bans the manufacture, distribution, transportation, importation, sale, gift, loan, or possession of .50 BMG rifles. (Pen. Code §§ 30600 & 30610.)
- 9) Exempts the DOJ, law enforcement agencies, military forces, and other specified agencies from the prohibition against sales to, purchase by, importation of, or possession of assault

AG00014487

Def. Exhibit 29
Page 001129

weapons or .50 BMG rifles. (Pen. Code, § 30625.)

- 10) Requires that any person who lawfully possesses an assault weapon prior to the date it was specified as an assault weapon to register the firearm with DOJ, as specified. (Pen. Code, § 30900 et. seq.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "bullet button-equipped semi-automatic weapons have no legitimate use for sport hunters or competitive shooters. They are designed only to facilitate the maximum destruction of human life. Such weapons have been used in a number of recent gun attacks including the recent terrorist attack in San Bernardino that left 14 Californians dead and 21 injured. Too many Californians have died at the hands of these dangerous weapons.

"SB 880 will make our communities safer and upholds our commitment to reduce gun violence in California by closing the bullet button loophole in California's Assault Weapons Ban. This bill clarifies the definition of assault weapons and provides the DOJ the authority to bring existing regulations into conformity with the original intent of California's Assault Weapon Ban. Absent this bill, the assault weapon ban is severely weakened, and these types of military-style firearms will continue to proliferate on our streets and in our neighborhoods."

- 2) **California's Assault Weapons Ban:** The origin of and subsequent modifications to the assault weapons ban in California are described by the federal Court of Appeal in the following extended excerpt from *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002) (as amend. Jan. 27, 2003).

In response to a proliferation of shootings involving semi-automatic weapons, the California Legislature passed the Roberti-Roos Assault Weapons Control Act (AWCA) in 1989. The immediate cause of the AWCA's enactment was a random shooting earlier that year at the Cleveland Elementary School in Stockton, California. An individual armed with an AK-47 semi-automatic weapon opened fire on the schoolyard, where 300 pupils were enjoying their morning recess. Five children ages six to nine were killed, and one teacher and 29 children were wounded.

The California Assembly met soon thereafter in an extraordinary session called for the purpose of enacting a response to the Stockton shooting. The legislation that followed, the AWCA, was the first legislative restriction on assault weapons in the nation, and was the model for a similar federal statute enacted in 1994. The AWCA renders it a felony offense to manufacture in California any of the semi-automatic weapons specified in the statute, or to possess, sell, transfer, or import into the state such weapons without a permit. The statute contains a grandfather clause that permits the ownership of assault weapons by individuals who lawfully purchased them before the statute's enactment, so long as the owners register the weapons with DOJ. The grandfather clause, however, imposes significant restrictions on the use of weapons that are registered pursuant to its provisions. Approximately 40 models of firearms are listed in the statute as subject to its restrictions. The specified weapons

AG00014488

Def. Exhibit 29
Page 001130

include “civilian” models of military weapons that feature slightly less firepower than the military-issue versions, such as the Uzi, an Israeli-made military rifle; the AR-15, a semi-automatic version of the United States military's standard-issue machine gun, the M-16; and the AK-47, a Russian-designed and Chinese-produced military rifle. The AWCA also includes a mechanism for the Attorney General to seek a judicial declaration in certain California superior courts that weapons identical to the listed firearms are also subject to the statutory restrictions.

The AWCA includes a provision that codifies the legislative findings and expresses the legislature's reasons for passing the law: “The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in [the statute] based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.”

In 1999, the Legislature amended the AWCA in order to broaden its coverage and to render it more flexible in response to technological developments in the manufacture of semiautomatic weapons. The amended AWCA retains both the original list of models of restricted weapons, and the judicial declaration procedure by which models may be added to the list. The 1999 amendments to the AWCA statute add a third method of defining the class of restricted weapons: the amendments provide that a weapon constitutes a restricted assault weapon if it possesses certain generic characteristics listed in the statute. Examples of the types of weapons restricted by the revised AWCA include a “semiautomatic, center-fire rifle that has a fixed magazine with the capacity to accept more than 10 rounds,” and a semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and also features a flash suppressor, a grenade launcher, or a flare launcher. The amended AWCA also restricts assault weapons equipped with “barrel shrouds,” which protect the user's hands from the intense heat created by the rapid firing of the weapon, as well as semiautomatic weapons equipped with silencers.

- 3) **Changes This Bill Makes to the AWCA:** As the Court explained, in 1999 the assault weapons ban was amended to expand the definition of an assault weapon to include a definition by the generic characteristics, specifically, to include a “semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine” in addition to one of several specified characteristics, such as a grenade launcher or flash suppressor. [SB 23 (Perata) Statutes of 1999, Chapter 129, Section 7 et seq.] SB 23 was enacted in response to the marketing of so-called “copycat” weapons - firearms that were substantially similar to weapons on the prohibited list but differed in some insignificant way, perhaps only the name of the weapon, thereby defeating the intent of the ban.

SB 23's generic definition of an assault weapon was intended to close the loophole in the law created by its definition of assault weapons as only those specified by make and model. Regulations promulgated after the enactment of SB 23 define a detachable magazine as any

AG00014489

Def. Exhibit 29
Page 001131

ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. In response to this definition, a new feature has been developed by firearms manufacturers to make military-style, high-powered, semi-automatic rifles "California compliant," the bullet button.

In 2012, researchers at the nonprofit Violence Policy Center in Washington, D.C. released a paper describing the phenomenon of the bullet button and its effect on California's assault weapons ban:

The "Bullet Button"—Assault Weapon Manufacturers' Gateway to the California Market

Catalogs and websites from America's leading assault rifle manufacturers are full of newly designed "California compliant" assault weapons. Number one and two assault weapon manufacturers Bushmaster and DPMS, joined by ArmaLite, Colt, Sig Sauer, Smith & Wesson, and others are all introducing new rifles designed to circumvent California's assault weapons ban and are actively targeting the state in an effort to lift now-sagging sales of this class of weapon. They are accomplishing this with the addition of a minor design change to their military-style weapons made possible by a definitional loophole: the "bullet button." [Please see the Appendix beginning on page six for 2012 catalog copy featuring "California compliant" assault rifles utilizing a "bullet button" from leading assault weapon manufacturers.]

California law bans semiautomatic rifles with the capacity to accept a detachable ammunition magazine and any one of six enumerated additional assault weapon characteristics (e.g., folding stock, flash suppressor, pistol grip, or other military-style features).

High-capacity detachable ammunition magazines allow shooters to expel large amounts of ammunition quickly and have no sporting purpose. However, in California an ammunition magazine is not viewed as detachable if a "tool" is required to remove it from the weapon. The "bullet button" is a release button for the ammunition magazine that can be activated with the tip of a bullet. With the tip of the bullet replacing the use of a finger in activating the release, the button can be pushed and the detachable ammunition magazine removed and replaced in seconds. Compared to the release process for a standard detachable ammunition magazine it is a distinction without a difference. (*Bullet Buttons, The Gun Industry's Attack on California's Assault Weapons Ban*, Violence Policy Center, Washington D.C., May 2012.)

One approach to this issue, taken by SB 249 (Yee) in 2012 and SB 47 (Yee) of 2014, as well as AB 1664 (Levine) of this session, and this bill, amends the statute to replace the language regarding detachable magazines. This approach also defines a "detachable magazine" as "an ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action, including an ammunition feeding device that can be removed readily from the firearm with the use of a tool." In other words, a semiautomatic rifle could have a detachable magazine, as long as that rifle did not also have any of the six prohibited features or that rifle could have the prohibited features as long as it had a fixed

AG00014490

Def. Exhibit 29
Page 001132

magazine.

Proponents argue the feature that makes one semi-automatic rifle capable of killing or wounding more people in a shorter amount of time than another is the capacity to rapidly reload large amounts of ammunition. For example, proponents note that, in 2011, a man opened fire on teenagers at a summer youth camp in Norway, killing 69 and wounding another 110, using a high-powered, semi-automatic rifle, the .223 caliber Ruger Mini-14. That rifle had none of the features listed in California's definition of an assault weapon and it is a perfectly legal weapon in California; supporters of this bill submit that what made that weapon such an effective tool of mass murder is the fact that the killer was able to rapidly reload one magazine after another of ammunition.

- 4) **Constitutionality:** The Constitutionality of California's assault weapons ban has been upheld by both the California Supreme Court [*Kasler v. Lockyer*, 23 Cal. 4th 472 (2000)] and the federal Court of Appeal. [*Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002) (as amend. Jan. 27, 2003).] While the California Supreme Court rejected allegations that the law violated equal protection guarantees, the separation of powers, and failed to provide adequate notice of what was prohibited under the law, the Ninth Circuit Court of Appeal decision in *Silveira* was based largely on its interpretation of the Second Amendment right to keep and bear arms. The Second Amendment of the Constitution states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." (United States Const. Amend. 2.) The *Silveira* Court based its ruling on the widely held interpretation of the Second Amendment known as the "collective rights" view, that the right secured by the Second Amendment relates to firearm ownership only in the context of a "well regulated militia." [*Silveira v. Lockyer*, 312 F.3d 1052, 1086 (9th Cir. Cal. 2002).]

The *Silveira* Court's interpretation of the meaning of the Second Amendment has since been squarely rejected by the U.S. Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010). Whether the *Heller* and *McDonald* cases mean that California's assault weapons ban violates the Second Amendment and is, therefore, unconstitutional is a different matter.

In *Heller*, the Supreme Court rejected the "collective rights" view of the Second Amendment and, instead, endorsed the "individual rights" interpretation, that the Second Amendment protects the right of each citizen to firearm ownership. After adopting this reading of the Second Amendment, the Supreme Court held that federal law may not prevent citizens from owning a handgun in their home. (*District of Columbia v. Heller*, 554 U.S. 570, 683-684.) In the *McDonald* case, the Supreme Court extended this ruling to apply to laws passed by the 50 states. (*McDonald v. City of Chicago*, 130 S. Ct. 3020, 3050.)

In deciding that the Second Amendment guaranteed the right to own a handgun in the home for self-defense, the Supreme Court stated that this ruling has its limitations:

"Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. For example, the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the

AG00014491

Def. Exhibit 29
Page 001133

Second Amendment or state analogues. Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."

- 5) **Governor's Veto Message of 2013's SB 374 (Steinberg):** Governor Brown vetoed somewhat similar legislation (requiring a fixed magazine) in 2013 with the following veto message:

"I am returning Senate Bill 374 without my signature.

"The State of California already has some of the strictest gun laws in the country, including bans on military-style assault rifles and high-capacity ammunition magazines.

"While the author's intent is to strengthen these restrictions, this bill goes much farther by banning any semi-automatic rifle with a detachable magazine. This ban covers low-capacity rifles that are commonly used for hunting, firearms training, and marksmanship practice, as well as some historical and collectible firearms. Moreover, hundreds of thousands of current gun owners would have to register their rifles as assault weapons and would be banned from selling or transferring them in the future.

"Today I signed a number of bills that strengthen California's gun laws, including AB 48, which closes a loophole in the existing ban on dangerous high-capacity magazines. I also signed AB 1131 and SB 127, which restrict the ability of mentally unstable people to purchase or possess guns.

"I don't believe that this bill's blanket ban on semi-automatic rifles would reduce criminal activity or enhance public safety enough to warrant this infringement on gun owners' rights."

- 6) **Argument in Support:** According to the *Law Center to Prevent Gun Violence*, "The California Legislature recognized long ago—after a gunman with an assault weapon shot 34 children at Cleveland Elementary School in Stockton, California—that these military-grade weapons of war have no place in our communities. Since 1989, California has led the nation in enacting common sense gun safety laws to keep assault weapons off our streets. However, the gun industry has repeatedly skirted the limits of this law and exploited its loopholes in order to continue selling military-style weaponry within the state.

"Existing California law defines prohibited assault weapons to include firearms that have both the capacity to accept a detachable magazine and specified military-style features. The ability to accept a detachable magazine allows a shooter to quickly reload an assault weapon to continue firing and killing without interruption.

"California's assault weapons ban does not define the term 'detachable magazine,' however. Perplexingly, current DOJ regulations define 'detachable magazine' in a manner that runs counter to both the spirit and the letter of the state's assault weapons ban. Under these regulations' definition, a weapon is not considered to have a detachable magazine, and is

AG00014492

therefore not a prohibited assault weapon, if a 'tool' is used to release the firearm's magazine instead of the shooter's finger alone. The regulations specifically state that "a bullet or an ammunition feeding device is considered a tool."¹

"The gun industry has exploited this dangerous loophole in recent years by marketing 'California compliant' assault weapons that are equipped with a 'bullet button.' These weapons are the functional equivalents of illegal assault weapons in every respect, except that the shooter uses a bullet, magnet, or other instrument, instead of his or her finger, to depress the button that releases the weapon's magazine. These weapons may be reloaded as quickly and efficiently as prohibited assault weapons, but they have been permitted to flood into this state at an alarming rate, threatening Californians' safety.

"SB 880 would further the letter and spirit of California's assault weapons law by adding a statutory definition of 'fixed magazine' to clarify that bullet button weapons are illegal assault weapons. This definition would establish that firearms like bullet button weapons, whose magazines may be removed and reloaded without disassembling the firearm action, do not have 'fixed magazines.' Individuals who lawfully obtained these weapons prior to January 1, 2017, would be required to register their weapons with DOJ.

"A December 2015 mass shooting tragedy illustrates the compelling need for this legislation. On that day, two radicalized assailants used bullet button weapons to shoot 36 people in a San Bernardino community building in the span of less than four minutes. The 'California compliant' bullet button weapons they used were designed to inflict maximal carnage on military battlefields and were nearly indistinguishable from illegal assault weapons. Any legitimate function these weapons might serve in sport or recreation is substantially outweighed by the danger that they may be used to—and in fact have been used to—quickly and efficiently take large numbers of human lives. By prohibiting all future manufacturing, possession, and sale of these weapons, SB 880 would help protect the public and law enforcement from battlefield weaponry that has no place in our civilian communities.

"This legislation is substantively similar to AB 1664 (Levine), which recently passed with strong support in this Committee and on the Assembly floor."

- 7) **Argument in Opposition:** According to the *Firearms Policy Coalition*, "On behalf of the members and supporters of Firearms Policy Coalition, I respectfully submit our opposition to Senate Bill 880 (Hall and Glazer) and respectfully request your 'NO' vote.

"SB 880 seeks to expand the ban on so-called 'assault weapon' through vague language, by re-defining the term 'detachable magazine' to mean 'an ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action, including an ammunition feeding device that can be removed readily from the firearm with the use of a tool.'

"SB 880 would ban millions of semi-automatic rifles protected by the Second Amendment to the United States Constitution and violate the civil rights of every law-abiding person in (and visitor to) California, moving the goal posts yet again for the millions of law abiding residents and visitors who have [quite reasonably, given the volume] struggled for years to keep up with the frenetic pace of California's ever-increasing and expensive firearm regulations.

AG00014493

Def. Exhibit 29
Page 001135

"The California Department of Justice (DOJ) will have to start from scratch to create new regulations, new forms, new databases and new online interfaces. Even with modest compliance by the public, the already struggling DOJ will have to hire or re-purpose dozens of staff in order to process millions of firearms lawfully owned by hundreds of thousands of California residents.

"Law enforcement will find cause to arrest thousands of residents and visitors annually as SB 880 wraps in tens of millions of firearms owned by millions of Californians and visitors. This will burden the courts and the correctional system—with people who are otherwise law-abiding.

"To summarize;

- "SB 880's uninformed new definitions put millions of law-abiding residents and visitors in to our jails and prisons and therefore probation and parole.
- "SB 880 contains no provision for outreach to the millions of Californians who have lawfully acquired firearms that would be subject to SB 880's reach.
- "SB 880 contains no provision for educating law enforcement officers or prosecutors—the very people who will have to interpret and enforce it—which will lead to false arrests and ruined lives.

"SB 880 creates overnight felons for mere possession, transfer, transport or inheritance of common, constitutionally protected items, creating a crisis for residents and visitors who have been law abiding all their lives and could lose all they have worked for –by simply exercising a fundamental right."

8) **Related Legislation:**

- a) AB 1663 (Chiu) takes a different approach to closing the bullet button loophole. AB 1663 was held in Assembly Appropriations Committee.
- b) AB 1664 (Levine) is substantially similar to this legislation. AB 1664 is currently awaiting a hearing in Senate Public Safety.

9) **Prior Legislation:**

- a) SB 47 (Yee), of the 2013-2014 Legislative Session, would have closed the bullet button loophole by redefining an assault weapon in statute as 'a semiautomatic, centerfire rifle that does not have a fixed magazine' and has any one of several specified features. SB 47 was held on the Assembly Appropriations Committee suspense file.
- b) SB 374 (Steinberg), of the 2013-2014 Legislative Session, would have closed the bullet button loophole by redefining an assault weapon as it pertains to rifles and defines "detachable magazines" and "fixed magazines." Specifies that rifles which are not assault weapons have fixed magazines. SB 374 was vetoed by the Governor.

AG00014494

Def. Exhibit 29
Page 001136

- c) SB 249 (Yee), of the 2011-12 Legislative Session, would have prohibited any person from importing, making, selling, loaning, transferring or possessing any conversion kit designed to convert certain firearms with a fixed magazine into firearms with a detachable magazine. SB 249 was held on the Assembly Appropriations Committee suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics
American College of Emergency Physicians, California Chapter
Bend the Arc
Brady Campaign to Prevent Gun Violence, Orange County
Brotherhood Crusade
California Attorney General
California Academy of Family Physicians
California Catholic Conference
California Chapters of the Brady Campaign
California Communities United Institute
California State PTA
Charles R. Drew University of Medicine and Science
City of Berkeley
City of Long Beach
City of Los Angeles
City of Oakland
Coalition Against Gun Violence
Community Clinic Association
Courage Campaign
International Health and Epidemiology Research Center
Law Center to Prevent Gun Violence
Laguna Woods Democratic Club
Nevada County Democrats
Peace Over Violence
Physicians for Social Responsibility, Sacramento
Physicians for Social Responsibility, San Francisco Bay
Rainbow Services
Santa Clara County Board of Supervisors
Violence Prevention Coalition
Youth Alive

31 private individual

Opposition

California Rifle and Pistol Association
California Sportsman's Lobby
California State Sheriffs' Association
California Waterfowl Association

AG00014495

Def. Exhibit 29
Page 001137

Crossroads of the West
Gun Owners of California
Firearms Policy Coalition
National Rifle Association
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Rick Farinelli, District 3 Supervisor, Madera County
Safari Club International
San Bernardino Sheriff's Office

Analysis Prepared by: Gabriel Caswell / PUB. S. / (916) 319-3744

ⁱ 11 CCR 5469.

AG00014496

Def. Exhibit 29
Page 001138

EXHIBIT 2
TO THE DECLARATION OF JOHN D. ECHEVERRIA

SEPTEMBER 2018



Violence Policy Center

Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use

An Analysis of Federal Bureau of Investigation
and National Crime Victimization Survey Data

WWW.VPC.ORG

AG00018409

Def. Exhibit 33
Page 001325

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AG00018410

Def. Exhibit 33
Page 001326

INTRODUCTION

Guns are rarely used to kill criminals or stop crimes.

In 2015, across the nation there were only 265 justifiable homicides¹ involving a private citizen using a firearm reported to the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program as detailed in its Supplementary Homicide Report (SHR).² That same year, there were 9,027 criminal gun homicides tallied in the SHR. *In 2015, for every justifiable homicide in the United States involving a gun, guns were used in 34 criminal homicides.*³ And this ratio, of course, does not take into account the tens of thousands of lives ended in gun suicides or unintentional shootings that year.⁴

This report analyzes, on both the national and state levels, the use of firearms in justifiable homicides. It also details, using the best data available on the national level, the *total* number of times guns are used for self-defense by the victims of both attempted and completed violent crimes and property crimes whether or not the use of the gun by the victim resulted in a fatality.

Key findings of this report, as detailed in its accompanying tables, include the following.

JUSTIFIABLE HOMICIDES WITH A GUN COMPARED TO CRIMINAL GUN HOMICIDES

- In 2015, there were only 265 justifiable homicides involving a gun. For the five-year period 2011 through 2015, there were only 1,160 justifiable homicides involving a gun. [For additional information see *Table One: Firearm Justifiable Homicides by State, 2011-2015.*]

¹ The Federal Bureau of Investigation (FBI) defines "justifiable homicide" as the killing of a felon, during the commission of a felony, by a private citizen.

² The Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program collects basic information on serious crimes from participating police agencies and records supplementary information about the circumstances of homicides in its unpublished Supplementary Homicide Report (SHR). The SHR contains more detailed information not available through published UCR data or elsewhere including: the age, sex, and race of victims and offenders; the types of weapons used; the relationship of victims to offenders; and, the circumstances of the homicides. Detailed information (such as weapon used, relationship between the victim and offender, etc.) in the SHR is available *only* for the first victim and/or offender in any justifiable homicide or homicide incident. In 2015, 98.1 percent of firearm justifiable homicide incidents (260 out of 265) had just one victim. Recognizing how the data is presented in the SHR and the fact that virtually all justifiable incidents had just one victim, throughout this report justifiable homicide incidents will be referred to as justifiable homicides.

³ Number of reported justifiable homicides and homicides taken from Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) Program Supplementary Homicide Report (SHR) as tabulated by the Violence Policy Center. It is important to note that the coding contained in the SHR data used in this report comes from law enforcement reporting at the local level. The level of information submitted to the SHR system may vary from agency to agency. While this study utilizes the best and most recent data available, it is limited by the degree of detail in the information submitted.

⁴ In 2015 there were 22,018 firearm suicide deaths and 489 fatal unintentional shootings. Source: Federal Centers for Disease Control and Prevention WISQARS database.

- In 2015, 17 states⁵ reported no justifiable homicides (Connecticut, Delaware, Hawaii, Idaho, Iowa, Maine, Massachusetts, Mississippi, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming). [For additional information see *Table One: Firearm Justifiable Homicides by State, 2011-2015*.]
- In 2015 for every justifiable homicide in the United States involving a gun, guns were used in 34 criminal homicides. For the five-year period 2011 through 2015, for every justifiable homicide in the United States involving a gun, guns were used in 35 criminal homicides. [For additional information see *Table Two: Circumstances for Homicides by Firearm, 2011-2015*.]

RELATIONSHIP OF PERSON KILLED TO SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, 37.7 percent (100 of 265) of persons killed in a firearm justifiable homicide were known to the shooter,⁶ 49.4 percent (131) were strangers, and in 12.8 percent (34) the relationship was unknown. For the five-year period 2011 through 2015, 33.8 percent (392 of 1,160) of persons killed in a firearm justifiable homicide were known to the shooter, 53.7 percent (623) were strangers, and in 12.5 percent (145) the relationship was unknown. [For additional information see *Table Three: Relationship of Person Killed to Shooter in Justifiable Homicides by Firearm, 2011-2015*.]

SEX OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, of the 265 firearm justifiable homicides, 93.2 percent (247) were committed by men, and 6.0 percent (16) were committed by women. For the five-year period 2011 through 2015, of the 1,160 firearm justifiable homicides, 92.4 percent (1,072) were committed by men, 7.0 percent (81) were committed by women, and in seven cases (0.6 percent) the sex of the shooter was unknown. [For additional information see *Table Four: Sex of Shooter in Justifiable Homicides by Firearm, 2011-2015*.]

SEX OF SHOOTER AND PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, of the 265 firearm justifiable homicides, 97.7 percent (259) of the persons shot and killed were men and 2.3 percent (six) were women. For the five-year period 2011 through 2015, of the 1,160 firearm justifiable homicides, 97.8 percent (1,134) of the persons shot and killed were men and 2.2 percent (26) were women. [For additional information see *Table Five: Sex of Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]

⁵ Alabama, Florida, and the District of Columbia did not submit any data to the FBI Supplementary Homicide Report (SHR) for the years 2011 through 2015. In addition, according to the FBI, limited SHR data was received from Illinois for the years 2011 through 2015. Beginning in 2016, all Illinois law enforcement agencies will be required by state law to report SHR data to the FBI. Data from these jurisdictions was not requested individually because the difference in collection techniques would create a bias in the study results.

⁶ Relationship categories in which the justifiable homicide victim was known to the shooter are acquaintance, boyfriend, brother, common-law husband, employee, ex-husband, ex-wife, father, friend, girlfriend, homosexual relationship, husband, in-law, neighbor, other family, other known, sister, son, stepfather, stepson, and wife.

- In 2015, 97.6 percent (241) of the persons killed by a male with a gun in a justifiable homicide were male and 2.4 percent (six) were female. For the five-year period 2011 through 2015, 97.6 percent (1,046) of the persons killed by a male with a gun in a justifiable homicide were male and 2.4 percent (26) were female. [For additional information see *Table Six: Sex of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015.*]
- In 2015, 100.0 percent (16) of the persons killed by a female with a gun in a justifiable homicide incident were male and 0.0 percent (zero) were female. For the five-year period 2011 through 2015, 100.0 percent (81) of the persons killed by a female with a gun in a justifiable homicide incident were male and 0.0 percent (zero) were female. [For additional information see *Table Six: Sex of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015.*]

RACE OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, 48.3 percent (128) of the shooters who committed justifiable homicides were white, 47.5 percent (126) were black, 1.9 percent (five) were Asian, 0.8 percent (two) were American Indian/Alaskan Native, and 1.5 percent (four) were of unknown race.⁷ For the five-year period 2011 through 2015, 48.0 percent (557) of the shooters who committed justifiable homicides were white, 48.4 percent (561) were black, 1.9 percent (22) were Asian, 0.5 percent (six) were American Indian/Alaskan Native, and 1.2 percent (14) were of unknown race. [For additional information see *Table Seven: Race of Shooter in Justifiable Homicides by Firearm, 2011-2015.*]

RACE OF PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, 34.7 percent (92) of persons killed with a gun in a justifiable homicide were white, 64.2 percent (170) were black, 0.4 percent (one) were Asian, 0.8 percent (two) were American Indian/Alaskan Native, and 0.0 percent (zero) were of unknown race. For the five-year period 2011 through 2015, 37.4 percent (434) of persons killed with a gun in a justifiable homicide were white, 60.9 percent (707) were black, 0.8 percent (nine) were Asian, 0.6 percent (seven) were American Indian/Alaskan Native, and 0.3 percent (three) were of unknown race. [For additional information see *Table Eight: Race of Person Killed in Justifiable Homicides by Firearm, 2011-2015.*]
- In 2015, 63.3 percent (81) of the persons killed with a gun in a justifiable homicide by a white shooter were white, 35.9 percent (46) were black, none were Asian, 0.8 percent (one) were American Indian/Alaskan Native, and none were of unknown race. For the five-year period 2011 through 2015, 69.5 percent (387) of the persons killed by white shooters were white, 28.7 percent (160) were black, 0.2 percent (one) were Asian, 1.1 percent (six) were American Indian/Alaskan Native, and 0.5 percent (three) were of unknown race. [For additional information see *Table Nine: Race of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015.*]
- In 2015, 7.9 percent (10) of the persons killed with a gun in a justifiable homicide by a black shooter were white, 92.1 percent (116) were black, none were Asian, none were American Indian/Alaskan Native, and none were of unknown race. For the five-year period 2011 through 2015, 6.2 percent (35) of the persons killed

⁷ Detailed information (such as race of offender and victim) in the FBI's Supplementary Homicide Report is only available for the first victim and/or offender in the incident. Hispanic ethnicity could not be determined because of the inadequacy of data collection and reporting.

by black shooters were white, 93.6 percent (525) were black, 0.2 percent (one) were Asian, none were American Indian/Alaskan Native, and none were of unknown race. [For additional information see *Table Nine: Race of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015.*]

TYPES OF FIREARMS USED IN JUSTIFIABLE HOMICIDES

- In 2015, firearms were used in 80.8 percent of justifiable homicides (265 of 328). Of these: 80.8 percent (214) were handguns; 4.9 percent (13) were shotguns; 2.3 percent (six) were rifles; 11.7 percent (31) were firearm, type not stated; and, 0.4 percent (1) were other gun. For the five-year period 2011 through 2015, firearms were used in 80.6 percent of justifiable homicide incidents (1,160 of 1,439). Of these: 77.6 percent (900) were handguns; 5.0 percent (58) were shotguns; 4.6 percent (53) were rifles; 12.5 percent (145) were firearm, type not stated; and, 0.3 percent (four) were other gun. [For additional information see *Table Ten: Weapon Used in Justifiable Homicides, 2011-2015* and *Table Eleven: Type of Firearms Used in Justifiable Homicides, 2011-2015.*]

HOW OFTEN ARE GUNS USED IN SELF-DEFENSE WHETHER OR NOT A CRIMINAL IS KILLED?

While it is clear that guns are rarely used to justifiably kill criminals, an obvious question remains: How often are guns used in self-defense whether or not a criminal is killed?

Pro-gun advocates – from individual gun owners to organizations like the National Rifle Association – frequently claim that guns are used up to 2.5 million times each year in self-defense in the United States.⁸ According to the 2004 book *Private Guns, Public Health* by Dr. David Hemenway, Professor of Health Policy at the Harvard T. H. Chan School of Public Health and director of the Harvard Injury Control Research Center:

Much discussion about the protective benefits of guns has focused on the incidence of self-defense gun use. Proponents of such putative benefits often claim that 2.5 million Americans use guns in self-defense against criminal attackers each year. This estimate is not plausible and has been nominated as the most outrageous number mentioned in a policy discussion by an elected official.

In his book, Hemenway dissects the 2.5 million figure from a variety of angles and, by extension, the NRA's own non-lethal self-defense claims for firearms. He concludes, "It is clear that the claim of 2.5 million annual self-defense gun uses is a vast overestimate" and asks, "But what can account for it?" As he details in his book, the main culprit is the "telescoping and...false positive problem" that derives from the very limited number of respondents claiming a self-defense gun use, "a matter of misclassification that is well known to medical epidemiologists."⁹

8 See, for example: "The Armed Citizen" ("Studies indicate that firearms are used more than 2 million times a year for personal protection...."), *America's 1st Freedom*, National Rifle Association, July 2018; and, "Chris Cox's NRA Armed Citizen: True Stories of Your Right to Self Defense in Action," ("While the anti gun media doesn't want to report the truth about Americans using guns for self defense as often as 2.5 million times a year, you can read breaking stories of everyday citizens fending off violent criminals in CHRIS COX'S ARMED CITIZEN"), *Armed Citizen E-Newsletter* (March 26, 2015). The 2.5 million estimate is the result of a telephone survey conducted by Florida State University criminologist Dr. Gary Kleck, see Hemenway, David, "The Myth of Millions of Annual Self-Defense Gun Uses: A Case Study of Survey Overestimates of Rare Events," *Chance* (American Statistical Association), Volume 10, No. 3, 1997.

9 For a more detailed discussion, please see Hemenway, David, *Private Guns, Public Health*, (The University of Michigan Press, 2004), pp. 66-69 and pp. 238-243.

ESTIMATES ON SELF-DEFENSE USE OF FIREARMS FROM THE BUREAU OF JUSTICE STATISTICS NATIONAL CRIME VICTIMIZATION SURVEY

Hemenway notes, and numerous others agree, that the most accurate survey of self-defense gun use is the National Crime Victimization Survey (NCVS) conducted by the Bureau of Justice Statistics. The survey has been ongoing since 1973.¹⁰

VIOLENT CRIME

According to the NCVS, looking at the total number of self-protective behaviors undertaken by victims of both attempted and completed violent crime for the *three-year period 2014 through 2016*, in only 1.1 percent of these instances had the intended victim in resistance to a criminal “threatened or attacked with a firearm.”¹¹ As detailed in the chart on the next page, for the three-year period 2014 through 2016, the NCVS estimates that there were 16,115,500 victims of attempted or completed violent crime. During this same three-year period, only 177,300 of the self-protective behaviors involved a firearm. Of this number, it is not known what type of firearm was used or whether it was fired or not. The number may also include off-duty law enforcement officers who use their firearms in self-defense.

¹⁰ According to the website of the Bureau of Justice Statistics, the National Crime Victimization Survey (NCVS) “is the nation’s primary source of information on criminal victimization. Each year, data are obtained from a nationally representative sample of about 135,000 households, composed of nearly 225,000 persons, on the frequency, characteristics, and consequences of criminal victimization in the United States. The NCVS collects information on nonfatal personal crimes (i.e., rape or sexual assault, robbery, aggravated and simple assault, and personal larceny) and household property crimes (i.e., burglary, motor vehicle theft, and other theft) both reported and not reported to police. Survey respondents provide information about themselves (e.g., age, sex, race and Hispanic origin, marital status, education level, and income) and whether they experienced a victimization. For each victimization incident, the NCVS collects information about the offender (e.g., age, race and Hispanic origin, sex, and victim-offender relationship), characteristics of the crime (e.g., time and place of occurrence, use of weapons, nature of injury, and economic consequences), whether the crime was reported to police, reasons the crime was or was not reported, and victim experiences with the criminal justice system.” Each household is interviewed twice during the year (see <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=245>).

¹¹ For “violent crime” the NCVS measures rape or sexual assault, robbery, and aggravated and simple assault (see Bureau of Justice Statistics, “Violent Crime” (see <https://www.bjs.gov/index.cfm?ty=tp&tid=31>)).

SELF-PROTECTIVE BEHAVIORS, BY TYPE OF CRIME, 2014-2016

	Violent Crime 2014-2016		Property Crime 2014-2016	
	Total	Percent	Total	Percent
Total Number of Crimes	16,115,500	100	45,816,900	100
"Victim was present"^a	16,115,500	100	7,319,100	16.0
Self-Protective Behavior				
Took no action or kept still	6,528,900	40.5	5,866,000	12.8
Threatened or attacked with a firearm	177,300	1.1	123,800	0.3
Threatened or attacked with other weapon	234,800	1.5	17,200	~
Threatened or attacked without a weapon	3,641,300	22.6	239,800	0.5
Nonconfrontational tactics ^b	4,811,700	29.9	910,700	2.0
Other reaction	695,700	4.3	154,300	0.3
Unknown reaction	25,900	0.2	7,300*	~*
Property crime, victim not present ^a	≠	≠	38,497,900	84.0
a By definition, victims are present during violent crime victimizations. Victims are not necessarily present during property crime victimizations.				
b Includes yelling, cooperating, running away, arguing or reasoning, calling police, or trying to attract attention or warn others.				
~ Less than 0.05%				
* Interpret with caution. Estimate based on 10 or fewer sample cases, or coefficient of variation is greater than 50 percent.				
≠ Not applicable				
Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2014-2016, Special Tabulation.				

PROPERTY CRIME

According to the NCVS, looking at the total number of self-protective behaviors undertaken by victims of attempted or completed property crime for the three-year period 2014 through 2016, in only 0.3 percent of these instances had the intended victim in resistance to a criminal threatened or attacked with a

firearm.¹² As detailed in the prior table, for the *three-year period 2014 through 2016*, the NCVS estimates that there were 45,816,900 victims of attempted or completed property crime. During this same *three-year period*, only 123,800 of the self-protective behaviors involved a firearm. Of this number, it is not known what type of firearm was used, whether it was fired or not, or whether the use of a gun would even be a legal response to the property crime. And as before, the number may also include off-duty law enforcement officers. In comparison, a 2017 study estimated that there are approximately 250,000 gun theft incidents *per year*, with about 380,000 guns stolen.¹³ Further, according to the FBI, firearms were used in 189,718 aggravated assaults and 125,289 robberies in the United States *in 2016 alone*.¹⁴

COMPARING NCVS DATA TO CLAIMS THAT GUNS ARE USED IN SELF-DEFENSE 2.5 MILLION TIMES A YEAR

Using the NCVS numbers, for the *three-year period 2014 through 2016*, the total number of self-protective behaviors involving a firearm by victims of attempted or completed violent crimes or property crimes totaled only 301,100. In comparison, the gun lobby claims that during the same *three-year period* guns were used 7.5 million times in self defense (applying to the three-year period the gun lobby's oft-repeated claim, noted earlier, that firearms are used in self defense 2.5 million times a year).

CONCLUSION

The reality of self-defense gun use bears no resemblance to the exaggerated claims of the gun lobby and gun industry. The number of justifiable homicides that occur in our nation each year pale in comparison to criminal homicides, let alone gun suicides and fatal unintentional shootings. And contrary to the common stereotype promulgated by the gun lobby, those killed in justifiable homicide incidents don't always fit the expected profile of an attack by a stranger: in 37.7 percent of the justifiable homicides that occurred in 2015 the persons shot and killed were known to the shooter.

The devastation guns inflict on our nation each and every year is clear. In 2016, guns killed more than 38,000 Americans and injured more than 116,000, leaving an untold number of lives traumatized and communities shattered.¹⁵ Unexamined claims of the efficacy and frequency of the self-defense use of firearms are the default rationale offered by the gun lobby and gun industry for this unceasing, bloody toll. The idea that firearms are frequently used in self-defense is the primary argument that the gun lobby and firearms industry use to expand the carrying of firearms into an ever-increasing number of public spaces and even to prevent the regulation of military-style semiautomatic assault weapons and high-capacity ammunition magazines. Yet this argument is hollow and the assertions false. When analyzing the most reliable data available, what is most striking is that in a nation of more than 300 million guns, how *rarely* firearms are used in self-defense.¹⁶

12 For "property crime" the NCVS measures household burglary, motor vehicle theft, as well as property theft. Since the survey information is obtained from a sample of households, it does not include property crimes affecting businesses or other commercial establishments. If such crimes are reported to law enforcement, they are included in the FBI's Uniform Crime Reporting Program. The NCVS includes property crimes affecting victims and household members which were reported and not reported to the police. (Bureau of Justice Statistics, "Property Crime," <http://bjs.gov/index.cfm?ty=tp&tid=32>.)

13 Hemenway, D., Azrael, D., & Miller, M., "Whose guns are stolen? The epidemiology of Gun theft victims." *Injury Epidemiology*, December 2017, <http://doi.org/10.1186/s40621-017-0109-8>.

14 See <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/topic-pages/tables/table-14> and <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/topic-pages/tables/table-13>.

15 In 2016, 38,658 Americans died from firearms and 116,414 were injured by firearms. Source: Federal Centers for Disease Control and Prevention WISQARS database.

16 It is estimated that the total number of firearms available to civilians in the United States is 310 million: 114 million handguns, 110 million rifles, and 86 million shotguns. Krouse, William J., *Gun Control Legislation*, Congressional Research Service, November 14, 2012, p. 8.

TABLE ONE: FIREARM JUSTIFIABLE HOMICIDES BY STATE, 2011-2015

State	Number of Justifiable Homicides					
	2011	2012	2013	2014	2015	TOTAL
Alabama	N/A	N/A	N/A	N/A	N/A	N/A
Alaska	3	6	0	0	1	10
Arizona	6	7	13	9	15	50
Arkansas	0	3	0	1	1	5
California	23	27	22	26	20	118
Colorado	3	2	3	2	1	11
Connecticut	0	0	0	1	0	1
Delaware	0	0	0	1	0	1
Florida	N/A	N/A	N/A	N/A	N/A	N/A
Georgia	5	8	6	4	16	39
Hawaii	0	0	0	0	0	0
Idaho	0	0	0	0	0	0
Illinois	4	1	2	1	7	15
Indiana	6	12	11	16	6	51
Iowa	0	0	0	0	0	0
Kansas	1	3	0	1	2	7
Kentucky	3	7	0	1	13	24
Louisiana	9	10	6	16	7	48
Maine	1	2	0	0	0	3
Maryland	2	6	5	3	7	23
Massachusetts	0	1	0	0	0	1
Michigan	31	20	12	15	7	85
Minnesota	0	1	2	2	3	8
Mississippi	0	1	1	0	0	2
Missouri	8	8	3	6	15	40
Montana	0	0	0	0	0	0

State	Number of Justifiable Homicides					
	2011	2012	2013	2014	2015	TOTAL
Nebraska	0	1	3	3	0	7
Nevada	2	1	1	2	6	12
New Hampshire	0	0	1	0	0	1
New Jersey	2	0	3	1	3	9
New Mexico	1	1	1	5	4	12
New York	0	0	0	0	5	5
North Carolina	3	5	1	6	4	19
North Dakota	1	0	0	0	0	1
Ohio	1	2	4	0	1	8
Oklahoma	5	11	7	6	11	40
Oregon	3	6	0	0	1	10
Pennsylvania	11	9	12	5	6	43
Rhode Island	0	0	0	0	0	0
South Carolina	6	11	6	6	14	43
South Dakota	0	1	0	0	0	1
Tennessee	21	20	16	27	18	102
Texas	29	47	49	43	61	229
Utah	0	2	0	0	1	3
Vermont	0	0	1	0	0	1
Virginia	6	7	9	4	2	28
Washington	5	4	8	4	1	22
West Virginia	0	1	0	0	0	1
Wisconsin	0	5	3	6	6	20
Wyoming	0	0	0	1	0	1
Total	201	259	211	224	265	1,160

TABLE TWO: CIRCUMSTANCES FOR HOMICIDES BY FIREARM, 2011-2015

Circumstance	Number of Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Criminal Homicide	8,066	97.6%	8,342	97.0%	7,838	97.4%	7,670	97.2%	9,027	97.1%	40,943	97.2%
Justifiable Homicide	201	2.4%	259	3.0%	211	2.6%	224	2.8%	265	2.9%	1,160	2.8%
Ratio of Criminal Homicide to Justifiable Homicide	40-1		32-1		37-1		34-1		34-1		35-1	
Total	8,267		8,601		8,049		7,894		9,292		42,103	

TABLE THREE: RELATIONSHIP OF PERSON KILLED TO SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Relationship	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Acquaintance	36	17.9%	52	20.1%	30	14.2%	53	23.7%	51	19.2%	222	19.1%
Boyfriend	2	1.0%	1	0.4%	3	1.4%	4	1.8%	6	2.3%	16	1.4%
Brother	0	0.0%	4	1.5%	2	1.0%	2	0.9%	5	1.9%	13	1.1%
Common-Law Husband	0	0.0%	0	0.0%	1	0.5%	0	0.0%	0	0.0%	1	0.1%
Employee	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Ex-Husband	1	0.5%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.1%
Ex-Wife	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Father	1	0.5%	0	0.0%	1	0.5%	0	0.0%	1	0.4%	3	0.3%
Friend	3	1.5%	5	1.9%	0	0.0%	0	0.0%	7	2.6%	15	1.3%
Girlfriend	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Homosexual Relationship	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.4%	1	0.1%
Husband	3	1.5%	1	0.4%	4	1.9%	3	1.3%	1	0.4%	12	1.0%
In-Law	1	0.5%	2	0.8%	0	0.0%	0	0.0%	0	0.0%	3	0.3%
Neighbor	1	0.5%	5	1.9%	2	1.0%	1	0.5%	4	1.5%	13	1.1%
Other Family	5	2.5%	3	1.2%	2	1.0%	0	0.0%	3	1.1%	13	1.1%
Other Known	8	4.0%	13	5.0%	9	4.3%	12	5.4%	14	5.3%	56	4.8%
Sister	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.4%	1	0.1%
Son	3	1.5%	4	1.5%	1	0.5%	1	0.5%	2	0.8%	11	0.9%
Stepfather	1	0.5%	0	0.0%	0	0.0%	0	0.0%	1	0.4%	2	0.2%
Stepson	1	0.5%	1	0.4%	1	0.5%	1	0.5%	3	1.1%	7	0.6%
Stranger	110	54.7%	133	51.4%	126	59.7%	123	54.9%	131	49.4%	623	53.7%
Wife	0	0.0%	1	0.4%	1	0.5%	0	0.0%	0	0.0%	2	0.2%
Unknown Relationship	25	12.4%	34	13.1%	28	13.3%	24	10.7%	34	12.8%	145	12.5%
Total	201		259		211		224		265		1,160	

TABLE FOUR: SEX OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Sex of Shooter	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Male	181	90.1%	237	91.5%	198	93.8%	209	93.3%	247	93.2%	1,072	92.4%
Female	17	8.5%	20	7.7%	13	6.2%	15	6.7%	16	6.0%	81	7.0%
Unknown	3	1.5%	2	0.8%	0	0.0	0	0.0%	2	0.8%	7	0.6%
Total	201		259		211		224		265		1,160	

TABLE FIVE: SEX OF PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Sex of Person Killed	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Male	196	97.5%	254	98.1%	207	98.1%	218	97.3%	259	97.7%	1,134	97.8%
Female	5	2.5%	5	1.9%	4	1.9%	6	2.7%	6	2.3%	26	2.2%
Total	201		259		211		224		265		1,160	

TABLE SIX: SEX OF SHOOTER AND PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Sex of Shooter	Sex of Person Killed	Number of Justifiable Homicides											
		2011		2012		2013		2014		2015		TOTAL	
Male	Male	176	97.2%	232	97.9%	194	98.0%	203	97.1%	241	97.6%	1,046	97.6%
	Female	5	2.8%	5	2.1%	4	2.0%	6	2.9%	6	2.4%	26	2.4%
Female	Male	17	100.0%	20	100.0%	13	100.0%	15	100.0%	16	100.0%	81	100.0%
	Female	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total		198		257		211		224		263		1,153	

TABLE SEVEN: RACE OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Race of Shooter	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
White	86	42.8%	131	50.6%	99	46.9%	113	50.5%	128	48.3%	557	48.0%
Black	106	52.7%	117	45.2%	104	49.3%	108	48.2%	126	47.5%	561	48.4%
Asian	4	2.0%	6	2.3%	5	2.4%	2	0.9%	5	1.9%	22	1.9%
American Indian/ Alaskan Native	2	1.0%	1	0.4%	1	0.5%	0	0.0%	2	0.8%	6	0.5%
Unknown	3	1.5%	4	1.5%	2	1.0%	1	0.5%	4	1.5%	14	1.2%
Total	201		259		211		224		265		1,160	

TABLE EIGHT: RACE OF PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Race of Person Killed	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
White	70	34.8%	98	37.8%	77	36.5%	97	43.3%	92	34.7%	434	37.4%
Black	128	63.7%	152	58.7%	130	61.6%	127	56.7%	170	64.2%	707	60.9%
Asian	2	1.0%	4	1.5%	2	1.0%	0	0.0%	1	0.4%	9	0.8%
American Indian/ Alaskan Native	1	0.5%	3	1.2%	1	0.5%	0	0.0%	2	0.8%	7	0.6%
Unknown	0	0.0%	2	0.8%	1	0.5%	0	0.0%	0	0.0%	3	0.3%
Total	201		259		211		224		265		1,160	

TABLE NINE: RACE OF SHOOTER AND PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Race of Shooter	Race of Person Killed	Number of Justifiable Homicides											
		2011		2012		2013		2014		2015		TOTAL	
White	White	62	72.1%	85	64.9%	71	71.7%	88	77.9%	81	63.3%	387	69.5%
	Black	23	26.7%	40	30.5%	26	26.3%	25	22.1%	46	35.9%	160	28.7%
	Asian	0	0.0%	1	0.8%	0	0.0%	0	0.0%	0	0.0%	1	0.2%
	American Indian/Alaskan Native	1	1.2%	3	2.3%	1	1.0%	0	0.0%	1	0.8%	6	1.1%
	Unknown	0	0.0%	2	1.5%	1	1.0%	0	0.0%	0	0.0%	3	0.5%
Black	White	3	2.8%	10	8.6%	5	4.8%	7	6.5%	10	7.9%	35	6.2%
	Black	102	96.2%	107	91.5%	99	95.2%	101	93.5%	116	92.1%	525	93.6%
	Asian	1	0.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.2%
	American Indian/Alaskan Native	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Unknown	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Asian	White	2	50.0%	1	16.7%	0	0.0%	1	50.0%	0	0.0%	4	18.2%
	Black	1	25.0%	2	33.3%	3	60.0%	1	50.0%	5	100.0%	12	54.5%
	Asian	1	25.0%	3	50.0%	2	40.0%	0	0.0%	0	0.0%	6	27.3%
	American Indian/Alaskan Native	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Unknown	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
American Indian/ Alaskan Native	White	2	100.0%	1	100.0%	1	100.0%	0	0.0%	1	50.0%	5	83.3%
	Black	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Asian	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	American Indian/Alaskan Native	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	50.0%	1	16.7%
	Unknown	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0
Total		198		255		209		223		261		1,146	

TABLE TEN: WEAPON USED IN JUSTIFIABLE HOMICIDES, 2011-2015

Weapon	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Firearm	201	77.0%	259	83.8%	211	78.1%	224	82.7%	265	80.8%	1,160	80.6%
Knife or cutting instrument	49	18.8%	35	11.3%	35	13.0%	36	13.3%	39	11.9%	194	13.5%
Blunt object	4	1.5%	4	1.3%	7	2.6%	1	0.4%	5	1.5%	21	1.5%
Bodily force	3	1.2%	9	2.9%	11	4.1%	9	3.3%	14	4.3%	46	3.2%
Strangulation	0	0.0%	0	0.0%	1	0.4%	0	0.0%	0	0.0%	1	0.1%
Asphyxiation	0	0.0%	0	0.0%	1	0.4%	0	0.0%	0	0.0%	1	0.1%
Unknown	4	1.5%	2	0.7%	4	1.5%	1	0.4%	5	1.5%	16	1.1%
Total	261		309		270		271		328		1,439	

TABLE ELEVEN: TYPE OF FIREARMS USED IN JUSTIFIABLE HOMICIDES, 2011-2015

Weapon	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Firearm, Type Not Stated	26	12.9%	30	11.6%	30	14.2%	28	12.5%	31	11.7%	145	12.5%
Handgun	152	75.6%	195	75.3%	165	78.2%	174	77.7%	214	80.8%	900	77.6%
Rifle	12	6.0%	19	7.3%	6	2.8%	10	4.5%	6	2.3%	53	4.6%
Shotgun	11	5.5%	15	5.8%	8	3.8%	11	4.9%	13	4.9%	58	5.0%
Other Gun	0	0.0%	0	0.0%	2	0.9%	1	0.4%	1	0.4%	4	0.3%
Total	201		259		211		224		265		1,160	

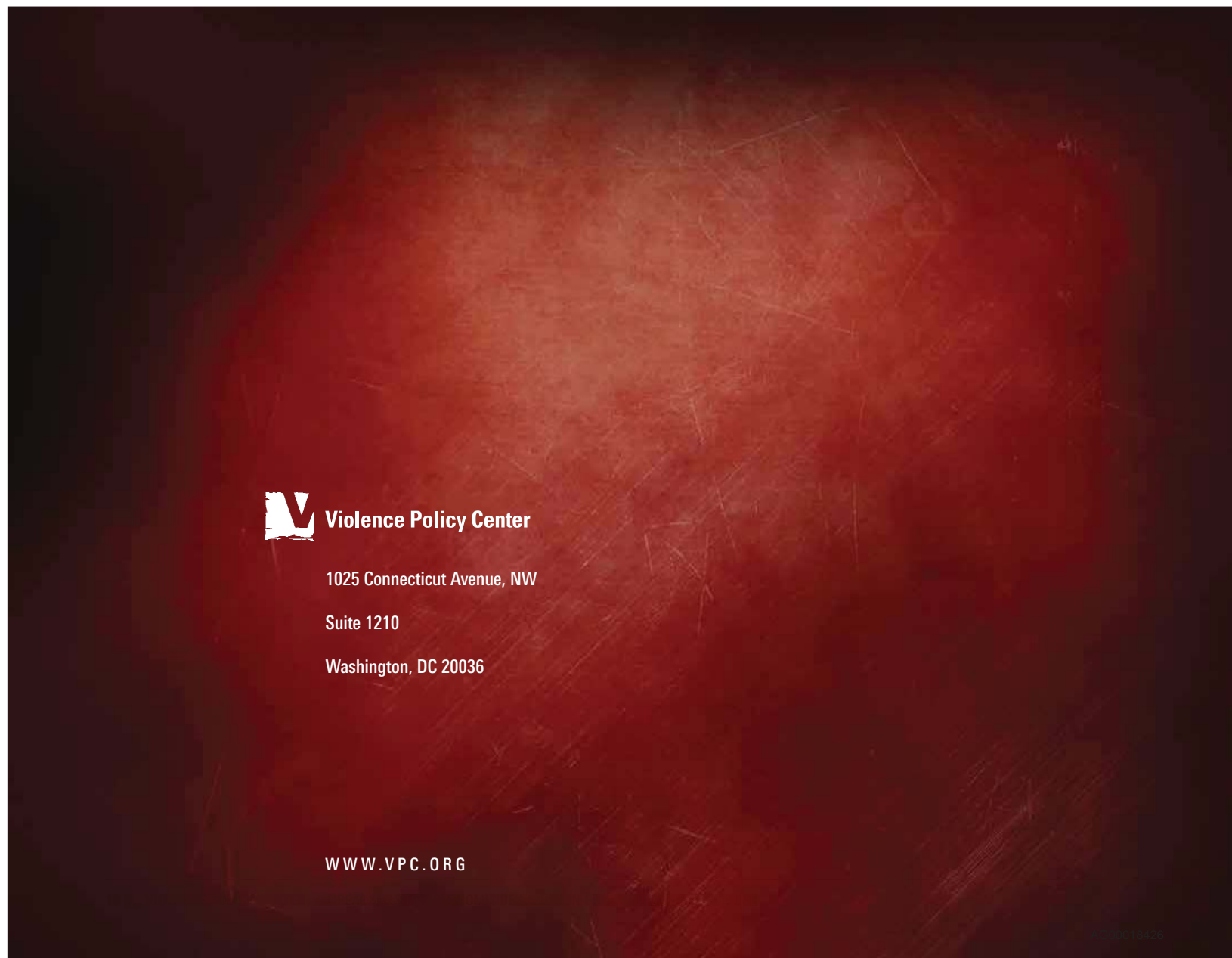


EXHIBIT 3
TO THE DECLARATION OF JOHN D. ECHEVERRIA



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

JUL 06 1989

MEMORANDUM TO: Director

FROM: Associate Director (Compliance Operations)

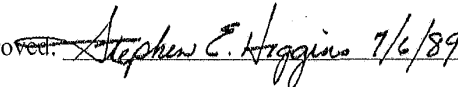
SUBJECT: Report and Recommendation on the
Importability of Certain Semiautomatic Rifles

The working group has completed its evaluation of the semiautomatic rifles whose importation was suspended pending a determination as to whether these weapons are, as required by 18 U.S.C. § 925(d)(3), of a type "generally recognized as particularly suitable for or readily adaptable to sporting purposes".

Attached for your review and approval is the report and recommendation on the importability of these rifles.


Daniel Black

Attachment

Approved:  7/6/89

Disapprove: _____

Page 1

Report and Recommendation on the Importability of Certain Semiautomatic Rifles

Def. Exhibit 22
Page 001043

**REPORT AND RECOMMENDATION OF THE ATF WORKING GROUP
ON THE IMPORTABILITY OF CERTAIN
SEMIAUTOMATIC RIFLES**

SUSPENSION OF ASSAULT-TYPE RIFLE IMPORTATIONS

On March 14, 1989, ATF announced that it was suspending, effective immediately, the importation of several makes of assault-type rifles, pending a decision as to whether these weapons meet the statutory test that they are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The announcement stated that ATF would not approve, until further notice, the importation of AKS-type weapons, Uzi carbines, FN/FAL-type weapons, FN/FNC-type weapons and Steyr Aug semiautomatic weapons. On April 5, 1989, the suspension was expanded to include all similar assault-type rifles.

For purposes of this suspension, assault-type rifles were rifles which generally met the following criteria:

- a. military appearance
- b. large magazine capacity
- c. semiautomatic version of a machinegun

Based on these criteria, ATF suspended action on pending applications and suspended outstanding permits covering certain firearms listed in Attachment 1. These included both centerfire and .22 rimfire caliber firearms. At that time, ATF indicated that the reexamination of these weapons would take approximately 90 days.

This ATF working group was established to conduct the reevaluation of the importability of these semiautomatic rifles. This report represents the findings and recommendations of the working group.

BACKGROUND

Section 925(d)(3) of Title 18, United States Code, as amended, provides in pertinent part that:

The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . .

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily

Page 2

Report and Recommendation on the Importability of Certain Semiautomatic Rifles

Def. Exhibit 22
Page 001044

adaptable to sporting purposes, excluding surplus
military firearms. . .

This provision was originally enacted by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968, and was also contained in Title I of the Gun Control Act of 1968, which amended Title IV later that year. According to the Senate Report on Title IV, this provision was intended to “curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting.” S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2112, 2167.

Moreover, there is legislative history which indicates that Congress intended the standard to allow the importation of traditional sporting rifles, while excluding military-type rifles. The Senate Report on the Gun Control Act observed that the importation standards “. . . are designed and intended to provide for the importation of quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms.” S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968). Significantly, the rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.¹

An explanation of the effect of this section by one of the sponsors of the bill specifically stated that military firearms would not meet the “sporting purposes” test for importation. The mere fact that a military firearm may be used in a sporting event does not make it importable as a sporting firearm².

There is a reference in the Senate Report on Title IV which notes that the importation prohibition “. . . would not interfere with the bringing in of currently produced firearms, such as rifles . . . of recognized quality which are used for hunting and for recreational purposes, or for personal protection.” S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2112, 2167. However, this language is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting since firearms particularly suitable for those purposes can obviously be used for other purposes such as recreational shooting and personal protection.

The determination of a weapon’s suitability for sporting purposes “rest[s] directly with the Secretary of the Treasury.” 114 Cong. Rec. 27465 (1968) (Statement of Sen. Murphy). While the legislative history suggests that the term “sporting purposes” refers to the traditional sports of target shooting, trap and skeet shooting, and hunting, the statute itself provides no criteria beyond the “generally recognized” language of section 925(d)(3). S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2167. The Senate Report on the Gun Control Act stated:

The difficulty of defining weapons characteristics to meet this target [of eliminating importation of weapons used in crime] without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.

S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

Following enactment of the Gun Control Act in 1968, the Secretary established a Firearms Evaluation Panel to provide guidelines for implementation of the “sporting purposes” test of section 925(d)(3). This panel was composed of representatives from the military, law enforcement, and the firearms industry. The panel focused its attention on handguns and recommended the adoption of factoring criteria to evaluate the various types of handguns. These factoring criteria are based upon such considerations as overall length of the firearm, caliber, safety features, and frame construction. An evaluation sheet (ATF Form 4590) was developed thereafter by ATF and put into use for evaluating handguns pursuant to section 925(d)(3). Attachment 2.

The 1968 Firearms Evaluation Panel did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms which Congress addressed separately, long guns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Thus, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns. Until recently, all rifles and shotguns were approved for importation so long as they were not otherwise excluded by section 925(d)(3). Only rifles and shotguns covered by the National Firearms Act (NFA), 26 U.S.C. S 5845(a) (for example, machineguns and short-barreled rifles and short-barreled shotguns), and surplus military rifles and shotguns had been denied importation.

The Firearms Evaluation Panel did briefly comment on whether a model BM59 Beretta, 7.62mm NATO Caliber Sporter Version Rifle was suitable for sporting purposes. Minutes of the Firearms Advisory Panel, December 10, 1968. Attachment 3. It was the consensus of the Panel that this rifle did have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of the Beretta BM59, together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle, be authorized for importation. (The Beretta BM59 and the Cetme, the predecessor to the HK91, are two of the rifles whose importation has been suspended. The SIG-AMT is no longer being produced.) However, the Panel recommended that importation of these weapons should include the restriction that they not possess combination flash suppressors/grenade launchers.

The working group found the Panel’s consideration of these rifles to be superficial and unpersuasive. The vast majority of the work of the 1968 Panel was devoted to handguns and the establishment of the factoring criteria for the importation of handguns. Indeed, we found compelling evidence that these rifles are not generally recognized as particularly suitable for sporting purposes.

The first time that ATF looked beyond the restrictions on NFA and surplus military rifles and shotguns and undertook a meaningful analysis under the “sporting purposes” test was in 1984. At that time, ATF was faced with a new breed of imported shotgun. It was clear that the historical assumption that all shotguns were sporting was no longer viable. Specifically, ATF was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes. This shotgun is a military/law enforcement weapon initially designed and manufactured in South Africa for riot control. When the importer was asked to provide evidence of sporting purposes for the weapon, ATF was provided information that the weapon was suitable for police/combat style competitions. ATF determined that this type of competition did not constitute “sporting purposes” under the statute, and that this shotgun was not suitable for traditional sporting purposes, such as hunting, and trap and skeet shooting. Accordingly, importation was denied. Attachment 4.

Page 4

Report and Recommendation on the Importability of Certain Semiautomatic Rifles

Def. Exhibit 22
Page 001046

Thereafter, in 1986, the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). After examination and testing of the weapon, ATF found that it was a semiautomatic version of a selective fire military-type assault shotgun. In this case, ATF determined that, due to its weight, size, bulk, designed magazine capacity, configuration, and other factors, the USAS-12 was not particularly suitable for or readily adaptable to sporting purposes. Again, ATF refused to recognize police/combat competitions as a sporting purpose under section 925(d)(3). The shotgun was reviewed on the basis of its suitability for traditional shotgun sports of hunting, and trap and skeet shooting and its importation was denied. Attachment 5. This decision was upheld by the United States District Court in Gilbert Equipment Company, Inc. v. Higgins, 709 F. Supp. 1071 (S.D. Ala. 1989). The case is currently on appeal to the Eleventh Circuit.

These two cases involving shotguns represent ATF's first thorough examination of the suitability of certain combat-type weapons for sporting purposes. In these cases ATF adopted an interpretation of sporting as being limited to certain traditional sports and not simply any lawful activity in which the weapons might be employed.

ANALYSIS

A. Defining the type of weapon under review.

As noted above, section 925(d)(3) expressly provides that the Secretary shall authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for sporting purposes. The legislative history also makes it clear that the Secretary shall scrutinize types of firearms in exercising his authority under section 925(d). Specifically, in its explanation of section 925(d)(3), the Senate Report on the Gun Control Act stated:

This subsection gives the Secretary authority to permit the importation of ammunition and certain types of firearms--(1) those imported for scientific or research purposes or for use in competition or training under chapter 401 of title 10 of the United States Code; (2) an unserviceable firearm other than a machinegun; (3) those firearms not coming within the purview of the National Firearms Act (26 U.S.C. 5801, et seq.) and suitable for sporting purposes (in the case of surplus military weapons this type is limited to shotguns and rifles) and those taken out of the United States. (Emphasis added.)

S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

In light of the statutory mandate that types of firearms be scrutinized, the working group first attempted to determine whether the semiautomatic rifles suspended from importation fall within a type of firearm.

The working group determined that the semiautomatic rifles in question are generally semiautomatic versions of true selective fire military assault rifles.³ As a class or type of firearm they are often referred to as "assault rifles," "assault-type rifles," "military style rifles," or "paramilitary rifles."⁴ Since we are only concerned with semiautomatic rifles, it is somewhat of a misnomer to refer to these weapons as "assault rifles." True assault rifles are selective fire

weapons that will fire in a fully automatic mode.⁵ For the purposes of this paper, it was necessary to settle on one term that best describes the weapons under consideration, and we will refer to these weapons as "semiautomatic assault rifles." They represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle. The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK47, is a weapon designed for killing or disabling the enemy and, as described below, has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed for military applications which distinguishes it from traditional sporting rifles.⁶ These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle. These features and characteristics are as follows:

1. Military Configuration.

- a. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines.⁷ This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. In addition, some States have a limit on the magazine capacity allowed for hunting, usually 8 rounds or less.⁸ That a firearm is designed and sold with a large capacity magazine, e.g., 20-30 rounds, is a factor to be considered in determining whether a firearm is a semiautomatic assault rifle.
- b. Folding/telescoping stocks. Many military firearms incorporate folding or telescoping stocks.⁹ The main advantage of this item is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded position, yet it cannot be fired nearly as accurately as with an open stock. With respect to possible sporting uses of this feature, the folding stock makes it easier to carry the firearm when hiking or backpacking. However, its predominant advantage is for military purposes, and it is normally not found on the traditional sporting rifle.
- c. Pistol grips. The vast majority of military firearms employ a well-defined pistol grip that protrudes conspicuously beneath the action of the weapon.¹⁰ In most cases, the "straight line design" of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can be an aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or competitive target competitions.
- d. Ability to accept a bayonet. A bayonet has distinct military purposes.¹¹ First, it has a psychological affect on the enemy. Second, it enables soldiers to fight in close quarters

Page 6

Report and Recommendation on the Importability of Certain Semiautomatic Rifles

Def. Exhibit 22
Page 001048

with a knife attached to their rifles. We know of no traditional sporting application for a bayonet.

- e. Flash suppressor. A flash suppressor generally serves one or two functions. First, in military firearms it disperses the muzzle flash when the firearm is fired to help conceal the shooter's position, especially at night. A second purpose of some flash suppressors is to assist in controlling the "muzzle climb" of the rifle, particularly when fired fully automatic.¹² From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Those flash suppressors which also serve to dampen "muzzle climb" have a limited benefit in sporting uses by allowing the shooter to reacquire the target for a second shot. However, the barrel of a sporting rifle can be modified by "magna-porting" to achieve the same result. There are also muzzle attachments for sporting firearms to assist in the reduction of muzzle climb. In the case of military-style weapons that have flash suppressors incorporated in their design, the mere removal of the flash suppressor may have an adverse impact on the accuracy of the firearm.
- f. Bipods. The majority of military firearms have bipods as an integral part of the firearm or contain specific mounting points to which bipods may be attached.¹³ The military utility of the bipod is primarily to provide stability and support for the weapon when fired from the prone position, especially when fired fully automatic. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles do not come equipped with bipods, nor are they specifically designed to accommodate them. Instead, bipods for sporting firearms are generally designed to attach to a detachable "sling swivel mount" or simply clamp onto the firearm.
- g. Grenade launcher. Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades.¹⁴ Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the rifle either by screws or clamps. We are not aware of any particular sporting use for grenade launchers.
- h. Night sights. Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness.¹⁵ Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally illegal to hunt at night.

2. Whether the weapon is a semiautomatic version of a machinegun.

The vast majority of modern military firearms are selective fire, i.e., they can shoot either fully automatic or semiautomatic. Since machineguns are prohibited from importation (except for law enforcement use) the manufacturers of such weapons have developed semiautomatic versions of these firearms.¹⁶

3. Whether the rifle is chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.

Page 7

Report and Recommendation on the Importability of Certain Semiautomatic Rifles

Def. Exhibit 22
Page 001049

Modern military assault rifles and submachineguns are generally chambered to accept a centerfire cartridge case of 2.25 inches or less.¹⁷ On the other hand, while many traditional sporting rifles will fire a cartridge of 2.25 inches or less, such firearms usually do not have the other military features outlined in Items 1a-h.

These features and characteristics are not usually found on traditional sporting firearms.¹⁸ This is not to say that a particular rifle having one or more of the listed features should necessarily be classified as a semiautomatic assault rifle. Indeed, many traditional sporting firearms are semiautomatic or have detachable magazines. Thus, the criteria must be viewed in total to determine whether the overall configuration places the rifle fairly within the semiautomatic assault rifle category.

Using these criteria, we determined that, on balance, all of the firearms on the original suspension list are properly included in the semiautomatic assault rifle category, with the exception of the .22 rimfire caliber rifles and the Valmet Hunter. While the .22 rimfire caliber rifles bear a striking resemblance to the true assault rifle, these rifles employ, by and large, conventional .22 rimfire caliber semiautomatic mechanisms.¹⁹ Moreover, they are not semiautomatic versions of a machinegun and contain only a few of the other relevant characteristics. Further, the working group determined that, in general, .22 caliber rifles are generally recognized as suitable for small game hunting. The Valmet Hunter, while based on the operating mechanism of the AK47 assault rifle, has been substantially changed so that it is now akin to a traditional sporting rifle and does not properly fall within the semiautomatic assault rifle category. More specifically, its receiver has been modified and its pistol grips, bayonet, and flash suppressor have been removed. The trigger mechanism has been moved to the rear of the modified receiver to facilitate its use with a traditional sporting stock. Also, its military-style sights have been replaced with traditional sporting-style sights. See Attachment 6.

B. Scope of "Sporting Purposes".

The second step of our process was to determine the scope of "sporting purposes" as used in the statute. This is a critical aspect of the process. The broadest interpretation could take in virtually any lawful activity or competition which any person or groups of persons might undertake. Under this interpretation, any rifle could meet the "sporting purposes" test. A narrower interpretation which focuses on the traditional sports of hunting and organized marksmanship competition would result in a more selective importation process.²⁰

To determine the proper interpretation, we consulted the statute itself, its legislative history, applicable case law, the work of the original Firearms Evaluation Panel, and prior interpretations by ATF. In terms of the statute itself, the structure of the importation provisions would suggest a somewhat narrow interpretation. In this regard, firearms are prohibited from importation (section 922(1)) with certain specific exceptions (section 925(d)(3)). A broad interpretation which permits virtually any firearm to be imported because someone may wish to use it in some lawful shooting activity would render the statute meaningless.

As discussed earlier, the legislative history suggests a narrow meaning and indicates that the term "sporting purposes" refers to the traditional sports of target shooting, skeet and trap shooting, and hunting. Moreover, the history discussed earlier strongly suggests that Congress intended the provision to allow the importation of traditional sporting type rifles while excluding military type rifles. There is nothing in its history to indicate that it was intended to recognize every conceivable

type of activity or competition which might employ a firearm. To the contrary, the history indicates that mere use in some competition would not make the rifle a sporting rifle.

Finally, the 1968 Firearms Evaluation Panel specifically addressed at least one informal shooting activity and determined that it was not a legitimate sporting purpose under the statute. The panel addressed what is commonly referred to as "plinking" (shooting at randomly selected targets such as bottles and cans). It was the Panel's view that "while many persons participated in this type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation. . . ." See Attachment 3.

Based on the above, the working group determined that the term "sporting purpose" should properly be given a narrow reading. It was determined that while hunting has been a recognized rifle sport for centuries, and competitive target shooting is a recognized rifle sport, the so-called activity of plinking is not a recognized sport. Moreover, we believe that reference to sporting purposes was intended also to stand in contrast to military and law enforcement applications. Consequently, the working group does not

believe that police/combat-type competitions should be treated as sporting activities. This position is supported by the court's decision in Gilbert Equipment Company, Inc., v Higgins, 709 F. Supp. 1071 (S.D. Ala. 1989) and is consistent with prior interpretations of ATF as noted on pages 4 and 5 in discussing the Striker-12 shotgun and USAS-12 shotgun.

C. Suitability.

The final step in our review involved an evaluation of whether semiautomatic assault rifles are a type of rifle generally recognized as particularly suitable for or readily adaptable to the traditional sporting applications discussed above.

The criminal misuse of semiautomatic assault rifles is a matter of significant public concern and was an important factor in the decision to suspend their importation. Nevertheless, the working group did not consider criminal misuse as a factor in its analysis of the importability of this type of rifle. Instead, the working group confined its analysis to the question of whether this type of rifle meets the test provided in section 925(d)(3).

Rather than criminal misuse, our comprehensive examination of this issue focused on the legal analysis and technical assessment of these firearms discussed earlier. In addition, the working group used the information gathered under Items 1-7 outlined in the next section in determining whether this type of firearm is generally recognized as particularly suitable for sporting purposes. These items take into account technical and marketing data, expert opinions, the recommended uses of the firearms, and data on the actual uses for which the weapons are employed in this country.

In evaluating these firearms, we believe that all rifles which are fairly typed as semiautomatic assault rifles should be treated the same. Therefore, the fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability.²¹ Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type.

This is consistent with the approach taken with respect to handguns since 1968. Although certain handguns may be used or recommended for sporting purposes, they may fall within the type of easily concealable handguns barred from importation by the administrative factoring criteria used by ATF to determine the importability of handguns. Furthermore, a pistol specifically designed for target shooting, but lacking a safety as required by the factoring criteria, would be a type of handgun prohibited from importation as not particularly suitable for sporting purposes for this reason. Finally, just as ATF allows handguns to be modified so as to meet the factoring criteria, a semiautomatic assault rifle could be modified into a sporting configuration and be importable, as was done in the case of the Valmet Hunter referred to earlier.

D. Evaluation of Information from Outside Sources

As part of our comprehensive analysis as to whether semiautomatic assault rifles meet the statutory criteria for importation, the following sources of information were also considered:

1. How has the weapon been advertised, marketed and categorized by the manufacturer and/or importer?
2. How has the use of the rifle been described by firearms technical writers?
3. What is the rifle's reported use by importers?
4. Do hunting guides recommend the rifle?
5. Do editors of hunting magazines recommend the rifle?
6. Is the rifle used in target shooting competitions?
7. Do State game commissions allow the use of the rifle to hunt?

Items 1-6 focus upon how the rifles are marketed, advertised, and recommended for use. Item 7 addresses the legal restrictions pertaining to the use of the weapons for sporting purposes.

The working group reviewed the advertising and marketing literature concerning each of the weapons (Item 1) and reviewed evaluations of the firearms by technical writers (Item 2). In addition, the working group solicited information from the importers of the weapons and other knowledgeable sources (Items 3-6).

Questionnaires were drafted and sent out to licensed hunting guides, State game and fish commissions, local hunting associations, competitive shooting groups, and hunting/shooting magazine editors to determine the extent to which the weapons are used for sporting purposes or recommended for such use. The working group believed that the actual uses of the weapons for sporting purposes would be a factor to be considered in determining whether this type of rifle meets the sporting purposes test.

The review of advertising and marketing literature indicates that these rifles are not generally marketed for hunting or competitive shooting. The review of the technical evaluations revealed that these rifles are not regarded as suitable for these sporting activities.²²

To the extent that the technical evaluations made recommendations with respect to the use of the rifles suspended from importation, the majority recommended them for law enforcement or military use or for activities such as collecting, plinking, home and self-defense, and combat target shooting. Only 5 of over 50 evaluations reviewed contained recommendations for the use of these firearms for hunting purposes.

The importers were asked to submit information concerning the sporting uses of the semiautomatic rifles they import. Thirty-nine importers were asked to submit this information and 19 responded. In general, their comments were conclusory and stated that their weapons could be used for sporting purposes. A small number of importers, e.g., Gun South, Inc., and Heckler & Koch, Inc., provided more specific data showing the sporting uses made of their firearms by their customers.

Of 3 hunting associations to whom questionnaires were sent, 2 responded. They stated that they place no restrictions on the use of semiautomatic rifles by their members, on the minimum caliber of ammunition used to hunt large game, or on the number of rounds allowed in semiautomatic rifle magazines. However, over 1,800 hunting guides were sent questionnaires and, of these, 706 responded. Over 73 percent of those responding indicated that their patrons used either bolt or lever action rifles for hunting. Only 10 of the 706 guides indicated that their patrons had used any of the rifles whose importation had been temporarily suspended.

Of the 20 hunting/shooting editors to whom questionnaires were sent, 14 responded. Nine of the fourteen editors recommended semiautomatic rifles for use in hunting large game, including 5 who recommended use of any of the rifles subject to the temporary suspension. Eleven of the fourteen editors recommended semiautomatic rifles for target competitions, including 7 who recommended semiautomatic assault rifles for such use.

The recommendations of editors were contradictory. One editor pointed out that what made the assault rifle successful as a military weapon made the semiautomatic version totally unfit for any other use. On the other hand, another editor stated that semiautomatic rifles had certain advantages over conventional sporting rifles especially for the physically disabled and left-handed shooters. While this may be true, there appears to be no advantage to using a semiautomatic assault rifle as opposed to a semiautomatic sporting rifle.

A total of 54 competitive shooting groups were sent a questionnaire and 53 groups responded (some of the responses were from unsolicited groups). Fifty of these groups indicated that they sponsor high power rifle competition events. While none of the groups prohibited the use of the semiautomatic assault rifles in their competitions, none stated that any of the rifles covered by the temporary suspension were used in a specific event.

Finally, the information gathered under Item 7 reveals that most of these weapons could legally be used in most States for most hunting purposes.

The working group reviewed all of the information gathered under Items 1-6 and determined that while these weapons may legally be used for sporting purposes in most States, the evidence was compelling that, as a type of firearm, the semiautomatic assault rifle is not generally recognized as particularly suitable for sporting purposes. The working group found persuasive the technical and expert evaluations of these firearms which generally did not recommend them as particularly suitable for sporting purposes. The group was also impressed by the comments of the hunting guides which showed that these rifles were not widely used for hunting purposes. The comments of the hunting guides are consistent with the opinion of the technical experts who generally do not recommend the rifles for hunting purposes.

The opinions of the editors were fairly divided with respect to the sporting uses of these rifles. The importers generally recommended their own weapons for such uses. The competitive shooting groups indicated that the rifles could be used in certain shooting events. Thus, while there was some evidence that these rifles could be used for hunting and target shooting, there was no evidence of any widespread use for such purposes. The mere fact that they are not generally prohibited from use for sporting purposes does not mean that the rifles meet the test for importation.

CONCLUSIONS

The working group has dealt with a complex issue, the resolution of which has required the group to take into account interpretations of law, technical assessments of firearms and their physical characteristics, marketing data, the assessment of data compiled from responses to questionnaires and, finally, Bureau expertise with respect to firearms. We fully recognize that particular findings as well as the results will be controversial.

From the cross section of representation within ATF, we have brought to bear our technical, legal, and administrative expertise to resolve the issues in what we believe to be a fair manner, taking into consideration all points of view. While some of the issues were difficult to resolve, in the end we believe that the ultimate conclusion is clear and compelling. These semiautomatic assault rifles were designed and intended to be particularly suitable for combat rather than sporting applications. While these weapons can be used, and indeed may be used by some, for hunting and target shooting, we believe it is clear that they are not generally recognized as particularly suitable for these purposes.

The purpose of section 925(d)(3) was to make a limited exception to the general prohibition on the importation of firearms, to preserve the sportsman's right to sporting firearms. This decision will in no way preclude the importation of true sporting firearms. It will only prevent the importation of military-style firearms which, although popular among some gun owners for collection, self-defense, combat competitions, or plinking, simply cannot be fairly characterized as sporting rifles.

Therefore, it is the finding of the working group that the semiautomatic assault rifle is not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes and that importation of these rifles should not be authorized under 18 U.S.C. § 925(d)(3).

Based on our evaluation, we recommend that the firearms listed on Attachment 7 not be authorized for importation. For the reasons discussed in this report, we recommend that the firearms listed on Attachment 8 be authorized for importation. These are the .22 rimfire caliber rifles and the Valmet Hunter which we do not believe are properly included in the category of semiautomatic assault rifles. Attachment 9 is a compilation of the responses from the questionnaires. Attachment 10 combines the criteria for identifying semiautomatic assault rifles and the items considered in assessing suitability. Attachments 11 and 12 contain the data compiled for each of the criteria listed in Attachment 10. Finally, Attachment 13 contains the source materials used in locating persons and organizations who were sent questionnaires.

NOTES

1. Paul Wahl, ed., Gun Trader's Guide, 13th Edition, (South Hackensack, NJ. 1987), 155-162.
2. Although a firearm might be recognized as "suitable" for use in traditional sports, it would not meet the statutory criteria unless it were recognized as particularly suitable for such use. Indeed, Senator Dodd made clear that the intent of the legislation was to "[regulate] the importation of firearms by excluding surplus military handguns; and rifles and shotguns that are not truly suitable for sporting purposes." 114 Cong. Rec. 13325 (1968) (Statement of Sen. Dodd) [emphasis added].

Similarly, it is apparent that the drafters of the legislation did not intend for "sports" to include every conceivable type of activity or competition which might employ a firearm; otherwise a "sporting purpose" could be advanced for every firearm sought to be imported. For example, in response to Sen. Hansen's question concerning the meaning of "sporting purposes" in the bill which became section 925(d), Senators Dodd and Hansen engaged in the following colloquy:

Mr. HANSEN. Would the Olympic shooting competition be a "sporting purpose?"

Mr. DODD. I would think so.

Mr. HANSEN. What about trap and skeet shooting?

Mr. DODD. I would think so. I would think trap and skeet shooting would certainly be a sporting activity.

Mr. HANSEN. Would the Camp Perry national matches be considered a "sporting purpose?"

Mr. DODD. Yes; that would not [sic] fall in that arena. It should be described as a sporting purpose.

Mr. HANSEN. I understand the only difference is in the type of firearms used at Camp Perry which includes a wide variety of military types as well as commercial.

Would all of these firearms be classified as weapons constituting a "sporting purpose?"

Mr. DODD. No. I would not say so. I think when we get into that, we definitely get into military type of weapon for use in matches like these at Camp Perry; but I do not think it is generally described as a sporting weapon. It is a military weapon. I assume they have certain types of competition in which they use these military weapons as they would in an otherwise completely sporting event. I do not think that fact would change the nature of the weapon from a military to a sporting one.

Mr. HANSEN. Is it not true that military weapons are used in Olympic competition also?

Mr. DODD. I do not know. Perhaps the Senator can tell me. I am not well informed on that.

Mr. HANSEN. It is my understanding that they are. Would the Senator be inclined to modify his response if I say that is true? (27461)

Mr. DODD. It is not that I doubt the Senator's word. Here again I would have to say that if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event. I think the Senator would agree with that. I do not know how else we could describe it.

Mr. HANSEN. If I understand the Senator correctly, he said that despite the fact that a military weapon may be used in a sporting event it did not, by that action become a sporting rifle. Is that correct?

Mr. DODD. That would seem right to me As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons..... I think the Senator and I know what a genuine sporting gun is.

114 Cong. Rec. 27461-62 (1968).(Emphasis added.)

3. Ken Warner, ed., Gun Digest 1989, (Northbrook, IL 1988), pp. 293-300; William S. Jarrett, ed., Shooter's Bible, No. 80, (Hackensack, NJ. 1988), pp. 345-363; Edward Clinton Ezell, Small Arms of the World, (Harrisburg, Pa. 1983), p. 844; Pete Dickey, "The Military Look-Alikes," American Rifleman, (April 1980), p. 31. Also, see generally, Ian V. Hogg, ed., Jane's Infantry Weapons, 1987-88, (New York 1987); Jack Lewis, ed., The Gun Digest Book of Assault Weapons, (Northbrook, IL. 1986).
4. Art Blatt, "Tomorrow's State-of-the-Art Sporting Rifle," Guns & Ammo, (July 1981), p. 48; Jarrett, pp. 345-363; Warner, pp. 293-300.
5. Daniel D. Musgrave and Thomas B. Nelson, The World's Assault Rifles, (Virginia, 1967), p. 1.
6. See generally, Angus Laidlaw, ed., Paul Wahl's Big Gun Catalog/1, (Bogota, NJ. 1988); Musgrave and Nelson; Hogg; Jarrett; and Warner.

Page 14

Report and Recommendation on the Importability of Certain Semiautomatic Rifles

Def. Exhibit 22
Page 001056

7. Ibid.
8. Arizona, 5 rounds; Colorado, 6 rounds; Michigan 6 rounds; New Hampshire, 5 rounds; New York, 6 rounds; North Carolina, 6 rounds; North Dakota, 8 rounds; Oregon, 5 rounds; Pennsylvania, semiautomatic rifles prohibited; Vermont, 6 rounds.
9. See generally, Hogg; Musgrave and Nelson; Ezell; Warner; Jarrett; Laidlaw; and Lewis.
10. Ibid.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.
16. Ezell, p. 844; Dickey, p. 31.
17. Musgrave and Nelson, pp. 11-29; and, see generally, Hogg; and Ezell.
18. Ezell, pp.844-866; and, see generally, Warner; Jarrett; and Laidlaw.
19. See, for example, Walter Rickell, "The Plinker's AK GunsMagazine, (July 1986) p. 21; John Lachuk, "Bantam Battle Rifles," Guns & Ammo, (January 1987), p. 37; John Lachuk, ".22 Erma Carbine," Guns & Ammo, (May 1968), p. 58; JackLewis, "Something New: The AK in Twenty-Two," Gun World, (July 1985), p. 32; Roger Combs, "A Most Unique Carbine," Gun World, (December 1985), p. 28; Garry James, "Mitchell Arms AK-22," Guns & Ammo, (November 1985), p. 72.
20. See note 2, colloquy between Senators Dodd and Hansen.
21. Ibid.
22. See generally, bibliography.

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NOTE: This information was extracted from the document titled, “**Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles**”, published in a memorandum to the Director, Stephen E. Higgins from the Associate Director, Daniel R. Black and approved on July 6, 1989.

EXHIBIT 4
TO THE DECLARATION OF JOHN D. ECHEVERRIA



Violence Policy Center

Key Points About Assault Weapons

1. Semiautomatic assault weapons like Sig Sauer's MCX are civilian versions of military assault weapons. Even though the gun industry prefers to call semiautomatic assault weapons "modern sporting rifles," there are no significant differences between them and military assault weapons.

2. Military assault weapons are selective-fire. That is, they are capable of fully automatic fire—or three-shot bursts—as well as semiautomatic fire.

3. Civilian assault weapons are *not* machine guns. They are semiautomatic weapons. (Since 1986 federal law has banned the sale to civilians of new machine guns.) The trigger of a semiautomatic weapon must be pulled separately for each round fired. A machine gun will continue to fire as long as the trigger is held down until the ammunition magazine is empty. It is a mistake to call civilian assault weapons "automatic weapons" or "machine guns."

4. This is a distinction without a difference in terms of killing power. Civilian semiautomatic assault weapons incorporate all of the functional design features that make assault weapons so deadly. They are arguably more deadly than military versions, because most experts agree that semiautomatic fire is more accurate than automatic fire. As the U.S. Army's *Rifle and Carbine Training Circular* notes, "Automatic or burst fires drastically decrease the probability of hit due to the rapid succession of recoil impulses and the inability of the Soldier to maintain proper sight alignment and sight picture on the target."

5. The distinctive "look" of assault weapons is not cosmetic. It is the visual result of specific functional design decisions. Military assault weapons were designed and developed for a specific military purpose—laying down a high volume of fire over a wide killing zone.

6. Civilian assault weapons keep the specific functional design features that make this anti-personnel function easy. These functional features also distinguish assault weapons from traditional sporting guns.

7. The most significant assault weapon functional design features are: (1) ability to accept a detachable high-capacity ammunition magazine, (2) a rear pistol or thumb-hole grip, and, (3) a forward grip or barrel shroud. Taken together, these are the design features that make possible the deadly and indiscriminate "spray-firing" for which assault weapons are designed. None of them are features of true hunting or sporting guns.

8. Although the gun lobby today argues that there is no such thing as civilian assault weapons, the industry, the National Rifle Association, and gun magazines enthusiastically described these civilian versions as "assault rifles," "assault pistols," and "military assault" weapons to boost civilian sales throughout the 1980s. The industry and its allies only began to use the semantic argument that a "true" assault weapon is a machine gun after civilian assault weapons turned up in large numbers in the hands of drug traffickers, criminal gangs, mass murderers, and other dangerous criminals.

EXHIBIT 5
TO THE DECLARATION OF JOHN D. ECHEVERRIA

Case 1:17-cv-10107-WGY Document 65-4 Filed 12/15/17 Page 80 of 125

103D CONGRESS 2d Session	}	HOUSE OF REPRESENTATIVES	{	REPORT 103-489
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**PUBLIC SAFETY AND RECREATIONAL FIREARMS USE
PROTECTION ACT**

MAY 2, 1994.—Committed to the Committee of the Whole House on the State of the
Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary,
submitted the following

REPORT

together with

SUPPLEMENTAL AND DISSENTING VIEWS

[To accompany H.R. 4296]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4296) to make unlawful the transfer or possession of assault weapons, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

SEC. 2. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMI-AUTOMATIC ASSAULT WEAPONS.

(a) **RESTRICTION.**—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

"(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.

"(3) Paragraph (1) shall not apply to—

79-006

AG00012649

Def. Exhibit 27
Page 001078

"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

"(B) any firearm that—

"(i) is manually operated by bolt, pump, lever, or slide action;

"(ii) has been rendered permanently inoperable; or

"(iii) is an antique firearm;

"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

"(4) Paragraph (1) shall not apply to—

"(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

"(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary."

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of such title is amended by adding at the end the following:

"(30) The term 'semiautomatic assault weapon' means—

"(A) any of the firearms, or copies or duplicates of the firearms, known as—

"(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

"(ii) Action Arms Israeli Military Industries UZI and Galil;

"(iii) Beretta Ar70 (SC-70);

"(iv) Colt AR-15;

"(v) Fabrique National FN/FAL, FN/LAR, and FNC;

"(vi) SWD M-10, M-11, M-11/9, and M-12;

"(vii) Steyr AUG;

"(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

"(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a bayonet mount;

"(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

"(v) a grenade launcher;

"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

"(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

"(v) a semiautomatic version of an automatic firearm; and

"(D) a semiautomatic shotgun that has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

AG00012650

Def. Exhibit 27
Page 001079

"(iii) a fixed magazine capacity in excess of 5 rounds; and
"(iv) an ability to accept a detachable magazine."

(c) **PENALTIES.**—

(1) **VIOLATION OF SECTION 922(v).**—Section 924(a)(1)(B) of such title is amended by striking "or (q) of section 922" and inserting "(r), or (v) of section 922".

(2) **USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.**—Section 924(c)(1) of such title is amended in the first sentence by inserting " , or semiautomatic assault weapon," after "short-barreled shotgun,".

(d) **IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.**—Section 923(i) of such title is amended by adding at the end the following: "The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured."

SEC. 3. RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS.

(a) **OFFENSE.**—Section 922 of title 18, United States Code, as amended by section 2(a) of this Act, is amended by adding at the end the following:

"(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

"(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

"(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

"(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

"(5) As used in this subsection, the term 'form 4473' means—

"(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

"(B) any other form which—

"(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

"(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A)."

(b) **PENALTY.**—Section 924(a) of such title is amended by adding at the end the following:

"(6) A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph."

SEC. 4. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) **PROHIBITION.**—Section 922 of title 18, United States Code, as amended by sections 2 and 3 of this Act, is amended by adding at the end the following:

"(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

"(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

"(3) This subsection shall not apply to—

"(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

"(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary."

AG00012651

Def. Exhibit 27
Page 001080

4

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of such title, as amended by section 2(b) of this Act, is amended by adding at the end the following:

“(31) The term ‘large capacity ammunition feeding device’—

“(A) means—

“(i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and

“(ii) any combination of parts from which a device described in clause (i) can be assembled; but

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.”.

(c) LARGE CAPACITY AMMUNITION FEEDING DEVICES TREATED AS FIREARMS.—Section 921(a)(3) of such title is amended in the first sentence by striking “or (D) any destructive device.” and inserting “(D) any destructive device; or (E) any large capacity ammunition feeding device.”.

(d) PENALTY.—Section 924(a)(1)(B) of such title, as amended by section 2(c) of this Act, is amended by striking “or (v)” and inserting “(v), or (x)”.

(e) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of such title, as amended by section 2(d) of this Act, is amended by adding at the end the following: “A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.”.

SEC. 5. STUDY BY ATTORNEY GENERAL.

(a) STUDY.—The Attorney General shall investigate and study the effect of this Act and the amendments made by this Act, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

SEC. 7. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

“APPENDIX A

Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M-1 Carbine
Iver Johnson 50th Anniversary M-1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions

AG00012652

Def. Exhibit 27
Page 001081

E.M.F. 1860 Henry Rifle
 E.M.F. Model 73 Lever-Action Rifle
 Marlin Model 336CS Lever-Action Carbine
 Marlin Model 30AS Lever-Action Carbine
 Marlin Model 444SS Lever-Action Sporter
 Marlin Model 1894S Lever-Action Carbine
 Marlin Model 1894CS Carbine
 Marlin Model 1894CL Classic
 Marlin Model 1895SS Lever-Action Rifle
 Mitchell 1858 Henry Replica
 Mitchell 1866 Winchester Replica
 Mitchell 1873 Winchester Replica
 Navy Arms Military Henry Rifle
 Navy Arms Henry Trapper
 Navy Arms Iron Frame Henry
 Navy Arms Henry Carbine
 Navy Arms 1866 Yellowboy Rifle
 Navy Arms 1873 Winchester-Style Rifle
 Navy Arms 1873 Sporting Rifle
 Remington 7600 Slide Action
 Remington Model 7600 Special Purpose Slide Action
 Rossi M92 SRC Saddle-Ring Carbine
 Rossi M92 SRS Short Carbine
 Savage 99C Lever-Action Rifle
 Uberti Henry Rifle
 Uberti 1866 Sporting Rifle
 Uberti 1873 Sporting Rifle
 Winchester Model 94 Side Eject Lever-Action Rifle
 Winchester Model 94 Trapper Side Eject
 Winchester Model 94 Big Bore Side Eject
 Winchester Model 94 Ranger Side Eject Lever-Action Rifle
 Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
 A-Square Caesar Bolt-Action Rifle
 A-Square Hannibal Bolt-Action Rifle
 Anschütz 1700D Classic Rifles
 Anschütz 1700D Custom Rifles
 Anschütz 1700D Bavarian Bolt-Action Rifle
 Anschütz 1733D Mannlicher Rifle
 Barret Model 90 Bolt-Action Rifle
 Beeman/HW 60J Bolt-Action Rifle
 Blaser R84 Bolt-Action Rifle
 BRNO 537 Sporter Bolt-Action Rifle
 BRNO ZKB 527 Fox Bolt-Action Rifle
 BRNO ZKK 600, 601, 602 Bolt-Action Rifles
 Browning A-Bolt Rifle
 Browning A-Bolt Stainless Stalker
 Browning A-Bolt Left Hand
 Browning A-Bolt Short Action
 Browning Euro Bolt Rifle
 Browning A-Bolt Gold Medallion
 Browning A-Bolt Micro Medallion
 Century Centurion 14 Sporter
 Century Enfield Sporter #4
 Century Swedish Sporter #38
 Century Mauser 98 Sporter
 Cooper Model 38 Centerfire Sporter
 Dakota 22 Sporter Bolt-Action Rifle
 Dakota 76 Classic Bolt-Action Rifle
 Dakota 76 Short Action Rifles
 Dakota 76 Safari Bolt-Action Rifle
 Dakota 416 Rigby African
 E.A.A./Sabatti Rover 870 Bolt-Action Rifle
 Auguste Francotte Bolt-Action Rifles
 Carl Gustaf 2000 Bolt-Action Rifle
 Heym Magnum Express Series Rifle
 Howa Lightning Bolt-Action Rifle
 Howa Realtree Camo Rifle
 Interarms Mark X Viscount Bolt-Action Rifle
 Interarms Mini-Mark X Rifle
 Interarms Mark X Whitworth Bolt-Action Rifle
 Interarms Whitworth Express Rifle
 Iver Johnson Model 5100A1 Long-Range Rifle
 KDF K15 American Bolt-Action Rifle
 Krico Model 600 Bolt-Action Rifle
 Krico Model 700 Bolt-Action Rifles
 Mauser Model 66 Bolt-Action Rifle
 Mauser Model 99 Bolt-Action Rifle
 McMillan Signature Classic Sporter
 McMillan Signature Super Varminter
 McMillan Signature Alaskan
 McMillan Signature Titanium Mountain Rifle
 McMillan Classic Stainless Sporter
 McMillan Talon Safari Rifle
 McMillan Talon Sporter Rifle
 Midland 1500S Survivor Rifle
 Navy Arms TU-33/40 Carbine
 Parker-Hale Model 81 Classic Rifle

AG00012653

Def. Exhibit 27
 Page 001082

Parker-Hale Model 81 Classic African Rifle
 Parker-Hale Model 1000 Rifle
 Parker-Hale Model 1100M African Magnum
 Parker-Hale Model 1100 Lightweight Rifle
 Parker-Hale Model 1200 Super Rifle
 Parker-Hale Model 1200 Super Clip Rifle
 Parker-Hale Model 1300C Scout Rifle
 Parker-Hale Model 2100 Midland Rifle
 Parker-Hale Model 2700 Lightweight Rifle
 Parker-Hale Model 2800 Midland Rifle
 Remington Model Seven Bolt-Action Rifle
 Remington Model Seven Youth Rifle
 Remington Model Seven Custom KS
 Remington Model Seven Custom MS Rifle
 Remington 700 ADL Bolt-Action Rifle
 Remington 700 BDL Bolt-Action Rifle
 Remington 700 BDL Varmint Special
 Remington 700 BDL European Bolt-Action Rifle
 Remington 700 Varmint Synthetic Rifle
 Remington 700 BDL SS Rifle
 Remington 700 Stainless Synthetic Rifle
 Remington 700 MTRSS Rifle
 Remington 700 BDL Left Hand
 Remington 700 Camo Synthetic Rifle
 Remington 700 Safari
 Remington 700 Mountain Rifle
 Remington 700 Custom KS Mountain Rifle
 Remington 700 Classic Rifle
 Ruger M77 Mark II Rifle
 Ruger M77 Mark II Magnum Rifle
 Ruger M77RL Ultra Light
 Ruger M77 Mark II All-Weather Stainless Rifle
 Ruger M77 RSI International Carbine
 Ruger M77 Mark II Express Rifle
 Ruger M77VT Target Rifle
 Sako Hunter Rifle
 Sako Fiberclass Sporter
 Sako Safari Grade Bolt Action
 Sako Hunter Left-Hand Rifle
 Sako Classic Bolt Action
 Sako Hunter LS Rifle
 Sako Deluxe Lightweight
 Sako Super Deluxe Sporter
 Sako Mannlicher-Style Carbine
 Sako Varmint Heavy Barrel
 Sako TRG-S Bolt-Action Rifle
 Sauer 90 Bolt-Action Rifle
 Savage 110G Bolt-Action Rifle
 Savage 110CY Youth/Ladies Rifle
 Savage 110WLE One of One Thousand Limited Edition Rifle
 Savage 110GXP3 Bolt-Action Rifle
 Savage 110F Bolt-Action Rifle
 Savage 110FXP3 Bolt-Action Rifle
 Savage 110GV Varmint Rifle
 Savage 112FV Varmint Rifle
 Savage Model 112FVS Varmint Rifle
 Savage Model 112BV Heavy Barrel Varmint Rifle
 Savage 116FSS Bolt-Action Rifle
 Savage Model 116FSK Kodiak Rifle
 Savage 110FP Police Rifle
 Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
 Steyr-Mannlicher Luxus Model L, M, S
 Steyr-Mannlicher Model M Professional Rifle
 Tikka Bolt-Action Rifle
 Tikka Premium Grade Rifles
 Tikka Varmint/Continental Rifle
 Tikka Whitetail/Battue Rifle
 Ultra Light Arms Model 20 Rifle
 Ultra Light Arms Model 28, Model 40 Rifles
 Voere VEC 91 Lightning Bolt-Action Rifle
 Voere Model 2165 Bolt-Action Rifle
 Voere Model 2155, 2150 Bolt-Action Rifles
 Weatherby Mark V Deluxe Bolt-Action Rifle
 Weatherby Lasermark V Rifle
 Weatherby Mark V Crown Custom Rifles
 Weatherby Mark V Sporter Rifle
 Weatherby Mark V Safari Grade Custom Rifles
 Weatherby Weathermark Rifle
 Weatherby Weathermark Alaskan Rifle
 Weatherby Classicmark No. 1 Rifle
 Weatherby Weatherguard Alaskan Rifle
 Weatherby Vanguard VGX Deluxe Rifle
 Weatherby Vanguard Classic Rifle
 Weatherby Vanguard Classic No. 1 Rifle
 Weatherby Vanguard Weatherguard Rifle
 Wichita Classic Rifle
 Wichita Varmint Rifle
 Winchester Model 70 Sporter
 Winchester Model 70 Sporter WinTuff
 Winchester Model 70 SM Sporter

AG00012654

Def. Exhibit 27
Page 001083

7

Winchester Model 70 Stainless Rifle
 Winchester Model 70 Varmint
 Winchester Model 70 Synthetic Heavy Varmint Rifle
 Winchester Model 70 DBM Rifle
 Winchester Model 70 DBM-S Rifle
 Winchester Model 70 Featherweight
 Winchester Model 70 Featherweight WinTuff
 Winchester Model 70 Featherweight Classic
 Winchester Model 70 Lightweight Rifle
 Winchester Ranger Rifle
 Winchester Model 70 Super Express Magnum
 Winchester Model 70 Super Grade
 Winchester Model 70 Custom Sharpshooter
 Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
 Brown Model One Single Shot Rifle
 Browning Model 1885 Single Shot Rifle
 Dakota Single Shot Rifle
 Desert Industries G-90 Single Shot Rifle
 Harrington & Richardson Ultra Varmint Rifle
 Model 1885 High Wall Rifle
 Navy Arms Rolling Block Buffalo Rifle
 Navy Arms #2 Creedmoor Rifle
 Navy Arms Sharps Cavalry Carbine
 Navy Arms Sharps Plains Rifle
 New England Firearms Handi-Rifle
 Red Willow Armory Ballard No. 5 Pacific
 Red Willow Armory Ballard No. 1.5 Hunting Rifle
 Red Willow Armory Ballard No. 8 Union Hill Rifle
 Red Willow Armory Ballard No. 4.5 Target Rifle
 Remington-Style Rolling Block Carbine
 Ruger No. 1B Single Shot
 Ruger No. 1A Light Sporter
 Ruger No. 1H Tropical Rifle
 Ruger No. 1S Medium Sporter
 Ruger No. 1 RSI International
 Ruger No. 1V Special Varminter
 C. Sharps Arms New Model 1874 Old Reliable
 C. Sharps Arms New Model 1875 Rifle
 C. Sharps Arms 1875 Classic Sharps
 C. Sharps Arms New Model 1875 Target & Long Range
 Shiloh Sharps 1874 Long Range Express
 Shiloh Sharps 1874 Montana Roughrider
 Shiloh Sharps 1874 Military Carbine
 Shiloh Sharps 1874 Business Rifle
 Shiloh Sharps 1874 Military Rifle
 Sharps 1874 Old Reliable
 Thompson/Center Contender Carbine
 Thompson/Center Stainless Contender Carbine
 Thompson/Center Contender Carbine Survival System
 Thompson/Center Contender Carbine Youth Model
 Thompson/Center TCR '87 Single Shot Rifle
 Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Baretta Express SSO O/U Double Rifles
 Baretta Model 455 SxS Express Rifle
 Chapuis RGExpress Double Rifle
 Auguste Francotte Sidelock Double Rifles
 Auguste Francotte Boxlock Double Rifle
 Heym Model 55B O/U Double Rifle
 Heym Model 55FW O/U Combo Gun
 Heym Model 88b Side-by-Side Double Rifle
 Kodiak Mk. IV Double Rifle
 Kreighoff Teck O/U Combination Gun
 Kreighoff Trumpf Drilling
 Merkel Over/Under Combination Guns
 Merkel Drillings
 Merkel Model 160 Side-by-Side Double Rifles
 Merkel Over/Under Double Rifles
 Savage 24F O/U Combination Gun
 Savage 24F-12T Turkey Gun
 Springfield Inc. M6 Scout Rifle/Shotgun
 Tikka Model 412a Combination Gun
 Tikka Model 412S Double Fire
 A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
 AMT Lightning Small-Game Hunting Rifle II
 AMT Magnum Hunter Auto Rifle
 Anschutz 525 Deluxe Auto
 Armscor Model 20P Auto Rifle
 Browning Auto-22 Rifle
 Browning Auto-22 Grade VI
 Krico Model 260 Auto Rifle

AG00012655

Def. Exhibit 27
 Page 001084

Lakefield Arms Model 64B Auto Rifle
 Marlin Model 60 Self-Loading Rifle
 Marlin Model 60ss Self-Loading Rifle
 Marlin Model 70 HC Auto
 Marlin Model 9901 Self-Loading Rifle
 Marlin Model 70P Papoose
 Marlin Model 922 Magnum Self-Loading Rifle
 Marlin Model 995 Self-Loading Rifle
 Norinco Model 22 ATD Rifle
 Remington Model 522 Viper Autoloading Rifle
 Remington 552BDL Speedmaster Rifle
 Ruger 10/22 Autoloading Carbine (w/o folding stock)
 Survival Arms AR-7 Explorer Rifle
 Texas Remington Revolving Carbine
 Voere Model 2115 Auto Rifle

Rimfire Rifles—Lever & Slide Action

Browning BL-22 Lever-Action Rifle
 Marlin 39TDS Carbine
 Marlin Model 39AS Golden Lever-Action Rifle
 Remington 572BDL Fieldmaster Pump Rifle
 Norinco EM-321 Pump Rifle
 Rossi Model 62 SA Pump Rifle
 Rossi Model 62 SAC Carbine
 Winchester Model 9422 Lever-Action Rifle
 Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
 Anschutz 1416D/1516D Classic Rifles
 Anschutz 1418D/1518D Mannlicher Rifles
 Anschutz 1700D Classic Rifles
 Anschutz 1700D Custom Rifles
 Anschutz 1700 FWT Bolt-Action Rifle
 Anschutz 1700D Graphite Custom Rifle
 Anschutz 1700D Bavarian Bolt-Action Rifle
 Armacor Model 14P Bolt-Action Rifle
 Armacor Model 1500 Rifle
 BRNO ZKM-452 Deluxe Bolt-Action Rifle
 BRNO ZKM 452 Deluxe
 Beeman/HW 60-J-ST Bolt-Action Rifle
 Browning A-Bolt 22 Bolt-Action Rifle
 Browning A-Bolt Gold Medallion
 Cabanas Phaser Rifle
 Cabanas Master Bolt-Action Rifle
 Cabanas Espronceda IV Bolt-Action Rifle
 Cabanas Leyre Bolt-Action Rifle
 Chipmunk Single Shot Rifle
 Cooper Arms Model 36S Sporter Rifle
 Dakota 22 Sporter Bolt-Action Rifle
 Krico Model 300 Bolt-Action Rifles
 Lakefield Arms Mark II Bolt-Action Rifle
 Lakefield Arms Mark I Bolt-Action Rifle
 Magtech Model MT-22C Bolt-Action Rifle
 Marlin Model 880 Bolt-Action Rifle
 Marlin Model 881 Bolt-Action Rifle
 Marlin Model 882 Bolt-Action Rifle
 Marlin Model 883 Bolt-Action Rifle
 Marlin Model 883SS Bolt-Action Rifle
 Marlin Model 25MN Bolt-Action Rifle
 Marlin Model 25N Bolt-Action Repeater
 Marlin Model 15YN "Little Buckaroo"
 Mauser Model 107 Bolt-Action Rifle
 Mauser Model 201 Bolt-Action Rifle
 Navy Arms TU-KKW Training Rifle
 Navy Arms TU-33/40 Carbine
 Navy Arms TU-KKW Sniper Trainer
 Norinco JW-27 Bolt-Action Rifle
 Norinco JW-15 Bolt-Action Rifle
 Remington 541-T
 Remington 40-XR Rimfire Custom sporter
 Remington 541-T HB Bolt-Action Rifle
 Remington 581-S Sportsman Rifle
 Ruger 77/22 Rimfire Bolt-Action Rifle
 Ruger K77/22 Varmint Rifle
 Ultra Light Arms Model 20 RF Bolt-Action Rifle
 Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64-MS Left Silhouette
 Anschutz 1808D RT Super Match 54 Target
 Anschutz 1827B Biathlon Rifle
 Anschutz 1903D Match Rifle
 Anschutz 1803D Intermediate Match
 Anschutz 1911 Match Rifle
 Anschutz 54.18MS REP Deluxe Silhouette Rifle
 Anschutz 1913 Super Match Rifle
 Anschutz 1907 Match Rifle

AG00012656

Def. Exhibit 27
 Page 001085

Anschutz 1910 Super Match II
 Anschutz 54.16MS Silhouette Rifle
 Anschutz Super Match 54 Target Model 2013
 Anschutz Super Match 54 Target Model 2007
 Beeman/Feinwerkbau 2600 Target Rifle
 Cooper Arms Model TRP-1 ISU Standard Rifle
 E.A.A./Weihrauch HW 60 Target Rifle
 E.A.A./HW 660 Match Rifle
 Finnish Lion Standard Target Rifle
 Krico Model 360 S2 Biathlon Rifle
 Krico Model 400 Match Rifle
 Krico Model 360S Biathlon Rifle
 Krico Model 500 Kricotronic Match Rifle
 Krico Model 600 Sniper Rifle
 Krico Model 600 Match Rifle
 Lakefield Arms Model 90B Target Rifle
 Lakefield Arms Model 91T Target Rifle
 Lakefield Arms Model 92S Silhouette Rifle
 Marlin Model 2000 Target Rifle
 Mauser Model 86-SR Specialty Rifle
 McMillan M-86 Sniper Rifle
 McMillan Combo M-87/M-88 50-Caliber Rifle
 McMillan 300 Phoenix Long Range Rifle
 McMillan M-89 Sniper Rifle
 McMillan National Match Rifle
 McMillan Long Range Rifle
 Parker-Hale M-87 Target Rifle
 Parker-Hale M-85 Sniper Rifle
 Remington 40-XB Rangemaster Target Centerfire
 Remington 40-XR KS Rimfire Position Rifle
 Remington 40-XBRR KS
 Remington 40-XC KS National Match Course Rifle
 Sako TRG-21 Bolt-Action Rifle
 Steyr-Mannlicher Match SPG-UTT Rifle
 Steyr-Mannlicher SSG P-I Rifle
 Steyr-Mannlicher SSG P-III Rifle
 Steyr-Mannlicher SSG P-IV Rifle
 Tanner Standard UIT Rifle
 Tanner 50 Meter Free Rifle
 Tanner 300 Meter Free Rifle
 Wichita Silhouette Rifle

Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL
 Benelli Super Black Eagle Shotgun
 Benelli Super Black Eagle Slug Gun
 Benelli M1 Super 90 Field Auto Shotgun
 Benelli Montefeltro Super 90 20-Gauge Shotgun
 Benelli Montefeltro Super 90 Shotgun
 Benelli M1 Sporting Special Auto Shotgun
 Benelli Black Eagle Competition Auto Shotgun
 Beretta A-303 Auto Shotgun
 Beretta 390 Field Auto Shotgun
 Beretta 390 Super Trap, Super Skeet Shotguns
 Beretta Vittoria Auto Shotgun
 Beretta Model 1201F Auto Shotgun
 Browning BSA 10 Auto Shotgun
 Browning Bea 10 Stalker Auto Shotgun
 Browning A-500R Auto Shotgun
 Browning A-500G Auto Shotgun
 Browning A-500G Sporting Clays
 Browning Auto-6 Light 12 and 20
 Browning Auto-6 Stalker
 Browning Auto-5 Magnum 20
 Browning Auto-5 Magnum 12
 Churchill Turkey Automatic Shotgun
 Cosmi Automatic Shotgun
 Maverick Model 60 Auto Shotgun
 Mossberg Model 5500 Shotgun
 Mossberg Model 9200 Regal Semi-Auto Shotgun
 Mossberg Model 9200 USST Auto Shotgun
 Mossberg Model 9200 Camo Shotgun
 Mossberg Model 6000 Auto Shotgun
 Remington Model 1100 Shotgun
 Remington 11-87 Premier shotgun
 Remington 11-87 Sporting Clays
 Remington 11-87 Premier Skeet
 Remington 11-87 Premier Trap
 Remington 11-87 Special Purpose Magnum
 Remington 11-87 SPS-T Camo Auto Shotgun
 Remington 11-87 Special Purpose Deer Gun
 Remington 11-87 SPS-BG-Camo Turkey Shotgun
 Remington 11-87 SPS-Deer Shotgun
 Remington 11-87 Special Purpose Synthetic Camo
 Remington SP-10 Magnum-Camo Auto Shotgun
 Remington SP-10 Magnum Auto Shotgun
 Remington SP-10 Magnum Turkey Combo
 Remington 1100 LT-20 Auto
 Remington 1100 Special Field
 Remington 1100 20-Gauge Deer Gun

AG00012657

Def. Exhibit 27
 Page 001086

Remington 1100 LT-20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS Pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerlayer Shotgun
Ithaca Deerlayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586-VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugster
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 870 SPS Special Purpose Magnum
Remington 870 SPS-T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunter Sport O/U Shotgun
Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U

AG00012658

Def. Exhibit 27
Page 001087

Charles Daly Lux Over/Under
 E.A.A./Sabatti Sporting Clays Pro-Gold O/U
 E.A.A./Sabatti Falcon-Mon Over/Under
 Kasanar Grade I O/U Shotgun
 Krieghoff K-80 Sporting Clays O/U
 Krieghoff K-80 Skeet Shotgun
 Krieghoff K-80 International Skeet
 Krieghoff K-80 Four-Barrel Skeet Set
 Krieghoff K-80/RT Shotgun
 Krieghoff K-80 O/U Trap Shotgun
 Laurona Silhouette 300 Sporting Clays
 Laurona Silhouette 300 Trap
 Laurona Super Model Over/Unders
 Ljutic LM-6 Deluxe O/U Shotgun
 Marocchi Conquista Over/Under Shotgun
 Marocchi Avanza O/U Shotgun
 Merkel Model 200E O/U Shotgun
 Merkel Model 200E Skeet, Trap Over/Unders
 Merkel Model 203E, 303E Over/Under Shotguns
 Perazzi Mirage Special Sporting O/U
 Perazzi Mirage Special Four-Gauge Skeet
 Perazzi Sporting Classic O/U
 Perazzi MX7 Over/Under Shotguns
 Perazzi Mirage Special Skeet Over/Under
 Perazzi MX8/MX8 Special Trap, Skeet
 Perazzi MX8/20 Over/Under Shotgun
 Perazzi MX9 Single Over/Under Shotguns
 Perazzi MX12 Hunting Over/Under
 Perazzi MX28, MX410 Game O/U Shotguns
 Perazzi MX20 Hunting Over/Under
 Piotti Boss Over/Under Shotgun
 Remington Peerless Over/Under Shotgun
 Ruger Red Label O/U Shotgun
 Ruger Sporting Clays O/U Shotgun
 San Marco 12-Ga. Wildflower Shotgun
 San Marco Field Special O/U Shotgun
 San Marco 10-Ga. O/U Shotgun
 SKB Model 505 Deluxe Over/Under Shotgun
 SKB Model 685 Over/Under Shotgun
 SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
 Soeger/IGA Condor I O/U Shotgun
 Soeger/IGA ERA 2000 Over/Under Shotgun
 Techni-Mec Model 610 Over/Under
 Tikka Model 412S Field Grade Over/Under
 Weatherby Athena Grade IV O/U Shotguns
 Weatherby Athena Grade V Classic Field O/U
 Weatherby Orion O/U Shotguns
 Weatherby II, III Classic Field O/Us
 Weatherby Orion II Classic Sporting Clays O/U
 Weatherby Orion II Sporting Clays O/U
 Winchester Model 1001 O/U Shotgun
 Winchester Model 1001 Sporting Clays O/U
 Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
 American Arms Gentry Double Shotgun
 American Arms Derby Side-by-Side
 American Arms Grulla #2 Double Shotgun
 American Arms WS/SS 10
 American Arms TS/SS 10 Double Shotgun
 American Arms TS/SS 12 Side-by-Side
 Arrieta Sidelock Double Shotguns
 Armsport 1050 Series Double Shotguns
 Arizaga Model 31 Double Shotgun
 AYA Boxlock Shotguns
 AYA Sidelock Double Shotguns
 Beretta Model 452 Sidelock Shotgun
 Beretta Side-by-Side Field Shotguns
 Crucelegui Hermanos Model 150 Double
 Chapuis Side-by-Side Shotgun
 E.A.A./Sabatti Saba-Mon Double Shotgun
 Charles Daly Model Das Double
 Ferlib Model F VII Double Shotgun
 Auguste Francotte Boxlock Shotgun
 Auguste Francotte Sidelock Shotgun
 Garbi Model 100 Double
 Garbi Model 101 Side-by-Side
 Garbi Model 103A, B Side-by-Side
 Garbi Model 200 Side-by-Side
 Bill Hanus Birdgun Doubles
 Hatfield Uplander Shotgun
 Merkel Model 8, 47E Side-by-Side Shotguns
 Merkel Model 47LSC Sporting Clays Double
 Merkel Model 47S, 147S Side-by-Sides
 Parker Reproductions Side-by-Side
 Piotti King No. 1 Side-by-Side
 Piotti Lunik Side-by-Side
 Piotti King Extra Side-by-Side
 Piotti Puma Side-by-Side

AG00012659

Def. Exhibit 27
 Page 001088

Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Uplander Side-by-Side Shotgun
Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun
Browning BT-99 Competition Trap Special
Browning BT-99 Plus Trap Gun
Browning BT-99 Plus Micro
Browning Recoilless Trap Shotgun
Browning Micro Recoilless Trap Shotgun
Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS-5 Trap Gun
Krieghoff KS-5 Special
Krieghoff K-80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel
Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Slug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90-T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun."

SUMMARY AND PURPOSE

The purpose of this bill is to create criminal penalties for the manufacture, transfer, or possession of certain firearms within the category of firearms known as "semiautomatic assault weapons." It also creates such penalties for certain ammunition feeding devices, as well as any combination of parts from which such a device can be assembled.

In reporting legislation banning certain assault weapons last Congress, the Committee on the Judiciary said:

The threat posed by criminals and mentally deranged individuals armed with semi-automatic assault weapons has been tragically widespread.¹

Since then, the use of semiautomatic assault weapons by criminal gangs, drug-traffickers, and mentally deranged persons continues to grow.²

H.R. 4296 will restrict the availability of such weapons in the future. The bill protects the rights of persons who lawfully own such weapons on its date of enactment by a universal "grandfathering" clause and specifically exempts certain firearms traditionally used for hunting and other legitimate support. It contains no confiscation or registration provisions; however, it does establish record-keeping requirements for transfers involving grandfathered semiautomatic assault weapons. Such record-keeping is not required for transfers of grandfathered ammunition feeding devices

¹"Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong, 1st Sess., Rept. 102-242, October 7, 1991, at 202.

²See, e.g., Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 Firearms; Chief Sylvester Daughtry, President, International Association of Chiefs of Police; Mr. John Pitta, National Executive Director, Federal Law Enforcement Officers Association).

(or their component parts.) H.R. 4296 expires ("sunsets") on its own terms after 10 years.

BACKGROUND

A series of hearings over the last five years on the subject of semiautomatic assault weapons has demonstrated that they are a growing menace to our society of proportion to their numbers:³ As this Committee said in its report to the last Congress:

The carnage inflicted on the American people by criminals and mentally deranged people armed with Rambo-style, semi-automatic assault weapons has been overwhelming and continuing. Police and law enforcement groups all over the nation have joined together to support legislation that would help keep these weapons out of the hands of criminals.⁴

Since then, evidence continues to mount that these semiautomatic assault weapons are the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.

Use in Crimes. On April 25, 1994, the Director of the Federal Bureau of Alcohol, Tobacco and Firearms testified that the percentage of semiautomatic assault weapons among guns traced because of their use in crime is increasing:

In 1990, 5.9 percent of firearms traced were assault weapons. In 1993, that percentage rose to 8.1 percent. Since Justice Department studies have shown that assault weapons make up only about 1 percent of the firearms in circulation, these percentages strongly suggest that they are proportionately more often used in crimes.⁵

Law enforcement officials confirm this statistical evidence in accounts of the rising level of lethality they face from assault weapons on the street. For example, the representative of a national police officers' organization testified:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and

³ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994; Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991; Hearing on Semiautomatic Assault Weapons, Part II, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, July 25, 1991; Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5 and 6, 1989.

⁴ "Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong., 1st Sess., Rept. 102-242, October 7, 1991, at 203.

⁵ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. John Magaw, Director, Bureau of Alcohol, Tobacco and Firearms).

preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, it just no match against a criminal armed with a semi-automatic assault weapon.⁶

A representative of federal law enforcement officers testified that semiautomatic assault weapons "dramatically escalate the firepower or the user" and "have become the weapon of choice for drug runners, hate groups and the mentally unstable."⁷

The TEC-9 assault pistol is the undisputed favorite of drug traffickers, gang members and violent criminals. Cities across the country confiscate more TEC-9s than any other assault pistol. The prototype for the TEC-9 was originally designed as a submachine gun for the South African government. Now it comes standard with an ammunition magazine holding 36 rounds of 9 mm cartridges. It also has a threaded barrel to accept a silencer, and a barrel shroud to cool the barrel during rapid fire. To any real sportsman or collector, this firearm is a piece of junk, yet is very popular among criminals.⁸

The Secretary of Housing and Urban Development testified that criminal gangs in Chicago routinely use semiautomatic assault weapons to intimidate not only residents but also security guards, forcing the latter to remove metal detectors installed to detect weapons.⁹

Use in Mass Killings and Killings of Law Enforcement Officers. Public concern about semiautomatic assault weapons has grown because of shootings in which large numbers of innocent people have been killed and wounded, and in which law enforcement officers have been murdered.

On April 25, 1994, the Subcommittee on Crime and Criminal Justice heard testimony about several incidents representative of such killings.

On February 22, 1994, Los Angeles (CA) Police Department rookie officer Christy Lynn Hamilton was ambushed and killed by a

⁶Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Tony Loizzo, executive vice president, National Association of Police Organizations). See also, Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police) (assault weapons "pose a grave and immediate threat to the lives of those sworn to uphold our laws"); Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5, 1989 (Testimony of Daniel M. Hartnett, associate director, law enforcement, Bureau of Alcohol, Tobacco and Firearms) ("Fifteen years ago, police rarely encountered armed drug dealers. Today, firearms, especially certain types of semiautomatic weapons, are status symbols and tools of the trade for this country's most vicious criminals.")

⁷Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

⁸Hearing on H.R. 4296 and H.R. 3527, Public Safety and recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

⁹Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development).

drug-abusing teenager using a Colt AR-15. The round that killed Officer Hamilton penetrated a car door, skirted the armhole of her protective vest, and lodged in her chest. The teenager also killed his father, who had given him the gun, and took his own life as well. Officer Hamilton had been voted the most inspirational officer in her graduating class only weeks before her murder. Officer Hamilton's surviving brother testified about the impact of this murder.¹⁰

On December 7, 1993, a deranged gunman walked through a Long Island Railroad commuter train, shooting commuters. Six died and 19 were wounded. The gunman used a Ruger semiautomatic pistol. Although the pistol itself would not be classified as an assault weapon under this bill, its 15 round ammunition magazine ("clip") would be banned. The gunman had several of these high capacity 15 round magazines and reloaded several times, firing between 30 to 50 rounds before he was overpowered while trying to reload yet again. The parents of one of the murdered victims, Amy Locicero Federici, testified about the impact of this murder.¹¹

On February 28, 1993, 4 special agents of the Bureau of Alcohol, Tobacco and Firearms were killed and 15 were wounded while trying to serve federal search and arrest warrants at the Branch Davidian compound in Waco, Texas. The Branch Davidian arsenal included hundreds of assault weapons, including AR-15s, AK-47s, Street Sweepers, MAC10s and MAC-11s, along with extremely high capacity magazines (up to 260 rounds).¹²

Finally, on July 1, 1993, gunman Gian Luigi Ferri Killed 8 people and wounded 6 others in a San Francisco high rise office building. Ferri—who took his own life—used two TEC DC9 assault pistols with 50 round magazines, purchased from a gun dealer in Las Vegas, Nevada. Two witnesses, both of whom lost spouses in the slaughter, and one of whom was herself seriously injured, testified about this incident.¹³

Numerous other notorious incidents involving semiautomatic assault weapons have occurred. They include the January 25, 1993, slaying of 2 CIA employees and wounding of 3 others at McLean, VA, (AK-47), and the January 17, 1989 murder in a Stockton, CA, schoolyard of 5 small children, and wounding of 29 others (AK-47 and 75 round magazine, firing 106 rounds in less than 2 minutes).

Several witnesses who were victims themselves during such incidents testified in opposition to H.R. 4296/H.R. 3527, and in opposition to the banning of any semiautomatic assault weapons or ammunition feeding devices.

Dr. Suzanna Gratia witnessed the brutal murder, in Luby's cafeteria located in Killeen, Texas, of both of her parents who had just

¹⁰ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ken Brondell, Jr.).

¹¹ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Jacob Locicero and Arlene Locicero).

¹² Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

¹³ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Michelle Scully and Steve Sposato).

celebrated their 47 wedding anniversary. Just a few days before, she had removed her gun from her purse and left it in her car to comply with a Texas law which does not allow concealed carrying of a firearm. Dr. Gratia testified:

I am mad at my legislators for legislating me out of a right to protect myself and my family. I would much rather be sitting in jail with a felony offense on my head and have my parents alive. As far as these so-called assault weapons, you say that they don't have any defense use. You tell that to the guy that I saw on a videotape of the Los Angeles riots standing on his rooftop protecting his property and his life from an entire mob with one of these so-called assault weapons. Tell me that he didn't have a legitimate self-defense use.¹⁴

Ms. Jacquie Miller was shot several times with a semiautomatic assault weapon and left for dead at her place of employment with the Standard Gravure Printing Company in Louisville, Kentucky, when a fellow employee went on a killing spree. Now permanently disabled, Ms. Miller testified:

It completely enrages me that my tragedy is being used against me to deny me and all the law abiding citizens of this country to the right of the firearm of our choosing. I refuse in return to use my tragedy for retribution against innocent people just to make myself feel better for having this misfortune. Enforce the laws against criminals already on the books. After all, there are already over 20,000 of them.¹⁵ More won't do a thing for crime control * * * You cannot ban everything in the world that could be used as a weapon because you fear it, don't understand it, or don't agree with it.

This is America, not Lithuania or China. Our most cherished possession is our Constitution and Bill of Rights. Let's not sell those down the river or we could one day find ourselves in a boat without a paddle against the criminals who think we are easy pickings.¹⁶

Mr. Phillip Murphy used his lawfully-possessed Colt AR-15 H-BAR Sporter semiautomatic rifle—a gun which would be specifically banned by H.R. 4296—to capture one of Tucson, Arizona's most wanted criminals who was attempting to burglarize the home of Mr. Murphy's parents. The 19-year old criminal he captured was

¹⁴Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (State of Dr. Suzanna Gratia, Copperas Cove, Texas)

¹⁵The Committee notes that, under the Gun Control Act of 1968 as amended in 1986, it is a Federal felony for a convicted felon to be in possession of any firearm, including an assault weapon, under 18 U.S.C. 922(g)(1). Violations carry up to five years imprisonment and a \$250,000 fine. If a criminal—whether previously convicted or not—is carrying an assault weapon and is involved in a drug trafficking crime, that criminal is subject to a mandatory minimum of 5 years imprisonment and a \$250,000 fine under 18 U.S.C. 924(c)(1). Any criminal who has three prior violent felony and/or serious drug offenses convictions and is in possession of a firearm is subject to a mandatory minimum of 15 years imprisonment and a \$250,000 fine under 18 U.S.C. 924(e)(1).

¹⁶Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ms. Jacquie Miller, Louisville, Kentucky).

a three-time loser with 34 prior convictions who was violating his third adult State parole for a knife assault. Mr. Murphy testified:

I respectfully urge this Committee and the Congress of the United States to restrain themselves from forcing tens of millions of law-abiding Americans like me to choose between the law and their lives.¹⁷

The Characteristics of Military-Style Semiautomatic Assault Weapons. The question of what constitutes an assault weapon has been studied by the Congress and the executive branch as the role of these guns in criminal violence has grown.

A Bureau of Alcohol, Tobacco and Firearms working group formed under the Bush administration to consider banning foreign imports of such semiautomatic assault weapons conducted the most recent comprehensive study of military assault weapons and the civilian firearms that are modelled after them.¹⁸ The working group formulated a definition of the civilian version, and a list of the assault weapon characteristics that distinguish them from sporting guns. That technical work has to a large extent been incorporated into H.R. 4296.¹⁹

The working group settled on the term "semiautomatic assault" for the civilian firearms at issue. That term distinguishes the civilian firearms from the fully automatic military weapons (machine-guns)²⁰ after which they are modelled and often simply adapted by eliminating the automatic fire feature. The group determined that "semiautomatic assault rifles * * * represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle."²¹

The group elaborated on the nature of those characteristics as follows:

The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK-47, is a weapon designed for killing or disabling the enemy and * * * has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed

¹⁷ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Mr. Phillip Murphy, Tucson, Arizona).

¹⁸ U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989.

¹⁹ The ultimate question of law upon which the working group was advising the Secretary of the Treasury was whether these import firearms met a "sporting purpose" test under 18 U.S.C. Code section 925(d). He held that they did not. Although that legal question is not directly posed by this bill, the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features.

²⁰ An automatic gun fires a continuous stream as long as the trigger is held down, until it has fired all of the cartridges ("rounds" or "bullets") in its magazine (or "clip"). Automatic firearms are also known as machineguns. A semi-automatic gun fires one round, then loads a new round, each time the trigger is pulled until its magazine is exhausted. Manually operated guns require the shooter to manually operate a bolt, slide, pump, or lever action to extract the fired round and load a new round before pulling the trigger.

²¹ U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

AG00012665

Def. Exhibit 27
Page 001094

for military applications which distinguishes it from traditional sporting rifles. These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle.²²

The "selective fire" feature to which the working group referred is the ability of the military versions to switch from fully automatic to semiautomatic fire at the option of the user. Since Congress has already banned certain civilian transfer or possession of machineguns,²³ the civilian models of these guns are produced with semiautomatic fire capability only. However, testimony was received by the Subcommittee on Crime and Criminal Justice that it is a relatively simple task to convert²⁴ a semiautomatic weapon to automatic fire²⁵ and that semiautomatic weapons can be fired at rates of 300 to 500 rounds per minute, making them virtually indistinguishable in practical effect from machineguns.²⁶

The 1989 Report's analysis of assault characteristics which distinguish such firearms from sporting guns was further explained by an AFT representative at a 1991 hearing before the Subcommittee on Crime and Criminal Justice:

We found that the banned rifles represented a distinctive type of rifle characterized by certain military features which differentiated them from the traditional sporting rifles. These include the ability to accept large capacity detachable magazines, bayonets, folding or telescoping stocks, pistol grips, flash suppressors, bipods, grenade launchers and night sights, and the fact that they are semiautomatic versions of military machineguns.²⁷

Proponents of these military style semiautomatic assault weapons often dismiss these combat-designed features as merely "cosmetic." The Subcommittee received testimony that, even if these characteristics were merely "cosmetic" in effect, it is precisely those cosmetics that contribute to their usefulness as tools of intimidation by criminals.²⁸

However, the expert evidence is that the features that characterize a semiautomatic weapon as an assault weapon are not merely cosmetic, but do serve specific, combat-functional ends. By facilitat-

²² U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

²³ 18 U.S. Code, section 922(o).

²⁴ The Committee notes that such conversion is a Federal felony that carries penalties of up to 10 years imprisonment and a \$250,000 fine under 26 U.S.C. 5861.

²⁵ Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police).

²⁶ Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police).

²⁷ Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Divisions, Bureau of Alcohol, Tobacco and Firearms) at 268.

²⁸ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms, Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Paul J. McNulty, Principal Deputy Director, Office of Policy Development, Department of Justice) at 288.

AG00012666

Def. Exhibit 27
Page 001095

ing the deadly “spray fire” of the weapon or enhancing its portability—a useful attribute in combat but one which serves to enhance the ability to conceal the gun in civilian life.²⁹

High-capability magazine, for example, make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent.³⁰ Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. As noted above, tests demonstrate that semiautomatic guns can be fired at very high rates of fire. In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities—from 3 to 5.

Because of the greater enhanced lethality—numbers of rounds that can be fired quickly without reloading—H.R. 4296 also contains a ban on ammunition magazines which hold more than 10 rounds, as well as any combination of parts from which such a magazine can be assembled.

Barrel shrouds also serve a combat-functional purpose.³¹ Gun barrels become very hot when multiple rounds are fired through them quickly. The barrel shroud cools the barrel so that it will not overheat, and provides the shooter with a convenient grip especially suitable for spray-firing.

Similar military combat purposes are served by flash suppressors (designed to help conceal the point of fire in night combat), bayonet mounts, grenade launchers, and pistol grips engrafted on long guns.³²

The net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond

²⁹Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Division, Bureau of Alcohol, Tobacco and Firearms); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

³⁰U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

³¹Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

³²Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

that of other firearms in general, including other semiautomatic guns.³³

BRIEF EXPLANATION OF H.R. 4296

H.R. 4296 combines two approaches which have been followed in the past in legislation proposed to control semiautomatic assault weapons—the so-called “list” approach and the “characteristics” approach.

The bill does not ban any semiautomatic assault weapons nor large capacity ammunition feeding device (or component parts) otherwise lawfully possessed on the date of enactment. However, records must be kept by both the transferor and the transferee involved in any transfer of these weapons, but not of the feeding devices (or combination of parts).

The bill explicitly exempts all guns with other than semiautomatic actions—i.e., bolt, slide, pump, and lever actions. In addition, it specifically exempts by make and model 661 long guns most commonly used in hunting and recreational sports,³⁴ making clear that these semiautomatic assault weapons are not and cannot be subject to any ban.

Section 2(z) of the bill lists 19 specific semiautomatic assault weapons—such as the AK-47, M-10, TEC-9, Uzi, etc.—that are banned.³⁵ It also defines other assault weapons by specifically enumerating combat style characteristics and bans those semiautomatic assault weapons that have 2 or more of those characteristics.³⁶

The bill makes clear that the list of exempted guns is not exclusive. The fact that a gun is not on the exempted list may not be construed to mean that it is banned. Thus, a gun that is not on the list of guns specifically banned by name would only be banned if it met the specific characteristics set out in the characteristics test. No gun may be removed from the exempted list.

H.R. 4296 also bans large capacity ammunition feeding devices—clips that accept more than 10 rounds of ammunition—as well as

³³ Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement and testimony of Dr. David Milzman, Associate Director, Trauma Services, Georgetown University Medical Center, Washington, DC); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

³⁴ See H.R. 4296, Appendix A, for the list.

³⁵ H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper, Striker 12; TEC-9; Uzi.

³⁶ While noting that its list is not all-inclusive, the Bureau of Alcohol, Tobacco, and Firearms has listed the following semi-automatic firearms that would be banned based on their general characteristics:

1. Semi-automatic Rifles: AA Arms AR9 semi-automatic rifle; AMT Lightning 25 rifle; Auto Ordnance Thompson Model 1927 carbines (finned barrel versions); Calico M100 carbine; Colt Sporter Rifle (all variations); Federal XC900 carbine; Federal XC450 carbine; Grendel R31 carbine; Iver Johnson M1 carbine (version w/collapsible stock and bayonet mount); Springfield M1A rifle.

2. Pistols: AA Arms AP9 pistol; Australian Automatic Arms pistol; Auto Ordnance Model 1927A5 pistol; American Arms Spectra pistol; Calico Model M950 pistol; Calico Model 110 pistol; All Claridge Hi-Tec pistol; D Max auto pistol; Grendel P-31 pistol; Heckler & Koch SP89 pistol; Wilkinson Linda pistol.

3. Shotguns: Benelli M1 Super 90 Defense shotgun; Benelli M3 Super 90 shotgun; Franchi LAW 12 shotgun; Franchi SPAS 12 shotgun; USAS 12 shotgun.

AG00012668

Def. Exhibit 27
Page 001097

any combination of parts from which such a device can be assembled.

The bill exempts all semiautomatic assault weapons and large capacity ammunition feeding devices (as well as any combination of parts) that are lawfully possessed on date of enactment. Owners of such semiautomatic assault weapons need do nothing under the bill unless they wish to transfer the semiautomatic assault weapon.

H.R. 4296 differs significantly from previously-proposed legislation—it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns. Most significantly, the ban in the 1991 proposed bill gave the Bureau of Alcohol, Tobacco, and Firearms authority to ban any weapon which “embodies the same configuration” as the named list of guns. The current bill, H.R. 4296 does not contain any such general authority. Instead, it contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons.

102D CONGRESS

The Subcommittee on Crime and Criminal Justice held hearings on semiautomatic assault weapons on June 12 and July 25, 1991. A ban on certain semiautomatic assault weapons was included as Subtitle A of Title XX in H.R. 3371, the Omnibus Crime Control Act of 1991. A ban on large capacity ammunition feeding devices was included in the same bill. The bill was reported out of the Judiciary Committee on October 7, 1991. The provisions dealing with semiautomatic assault weapons and large capacity ammunition feeding devices were struck by the House of Representatives by a vote of 247–177 on October 17, 1991.

103D CONGRESS

The Subcommittee on Crime and Criminal Justice held hearings on H.R. 4296 and its predecessor, H.R. 3527, which ban semiautomatic assault weapons, on April 25, 1994. The Subcommittee reported favorably on an amendment in the nature of a substitute to H.R. 4296 on April 26, 1994, by a recorded vote of 8–5.

COMMITTEE ACTION

The Committee on the Judiciary met on April 28, 1994 to consider H.R. 4296, as amended. Two amendments were adopted during the Committee's consideration.

An amendment was offered to provide that the absence of a firearm from the list of guns specifically exempted from the ban may not be construed as evidence that the semiautomatic assault weapon is banned, and that no gun may be removed from the exempt list so long as the Act is in effect. This amendment was adopted by voice vote.

An amendment was offered to delete a provision that barred from owning any firearms those persons convicted of violating the recordkeeping requirements relating to grandfathered weapons. This amendment was adopted by voice vote.

AG00012669

Def. Exhibit 27
Page 001098

A reporting quorum being present, the Committee on the Judiciary, by a roll call vote of 20 to 15, ordered H.R. 4296, as amended, favorably reported to the House.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section provides that the Act may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

SECTION 2—RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS

Subsection 2(a) makes it unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon (including any “copies or duplicates.”)

The ban on transfer and possession does not apply to (1) weapons otherwise lawfully possessed on the date of enactment; (2) any of the firearms (or their replicas or duplicates) listed in Appendix A; (3) any manually operated (bolt, pump, slide, lever action), permanently inoperable, or antique firearms; (4) semiautomatic rifles that cannot accept a detachable magazine that holds more than 5 rounds; or, a semiautomatic shotgun that cannot hold more than 5 rounds in a fixed or detachable magazine.

The fact that a gun is not listed in Appendix A may not be construed to mean that it is banned. No gun listed in Appendix A may be removed from that exempted list so long as the Act is in effect.

Federal departments and agencies and those of States and their subdivisions are exempted. Law enforcement officers authorized to purchase firearms for official use are exempted, as are such officers presented with covered weapons upon retirement who are not otherwise prohibited from receiving such a weapon. Finally, weapons made, transferred, possessed, or imported for the purposes of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 2(b) defines semiautomatic assault weapons, both by name and by characteristics. It lists by name specific firearms, including “copies or duplicates” of such firearms.³⁷ Characteristics of covered semiautomatic rifles, pistols, and shotguns are defined by separate subsections applicable to each. In the case of rifles and pistols, in addition to being semiautomatic, a gun must be able to accept a detachable magazine and have at least 2 listed characteristics.

In the case of rifles, those characteristics are: (1) folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a bayonet mount; (4) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (5) a grenade launcher.

In the case of pistols, the characteristics are: (1) a magazine that attaches to the pistol outside of the pistol grip; (2) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; (3) a barrel shroud that permits the

³⁷ H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi

shooter to hold the firearm without being burned; (4) an unloaded manufactured weight of 50 ounces or more; and (5) a semiautomatic version of an automatic firearm.

In the case of shotguns, covered weapons must have at least 2 of the following four features: (1) a folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a fixed magazine capacity in excess of 5 rounds; and (4) an ability to accept a detachable magazine.

The section provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban on manufacture, transfer and possession. It also adds use of a semiautomatic assault weapon to the crimes covered by the mandatory minimum of 5 years under 18 USC Section 924(c)(1) for use in a federal crime of violence or drug trafficking crime.

Finally, the section requires that semiautomatic assault weapons manufactured after the date of enactment must clearly show the date on which the weapon was manufactured.

SECTION 3—RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS

This section makes it unlawful to transfer a grandfathered semiautomatic assault weapon unless both the transferor and the transferee complete and retain a copy of federal form 4473 (or its successor). Within 90 days of enactment, the Secretary of the Treasury must issue regulations ensuring the availability of the form to owners of semiautomatic assault weapons. The Committee expects the Secretary to make such forms easily and readily available to such gun owners. The Committee further expects the Secretary to maintain the confidentiality of the requester and to ensure the destruction of any and all information pertaining to any request for such forms immediately upon complying with the request. The Committee does not expect the Secretary to release any such information to any other Department of the Federal, State or local Governments or to use the information in any way other than to comply with the requests for the form. The Committee would consider failure to comply with these expectations a very serious breach.

A person who knowingly violates the recordkeeping requirement shall be fined not more than \$1,000, imprisoned for not more than 6 months or both.

SECTION 4—BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES

Subsection 4(a) makes it unlawful for a person to transfer or possess a large capacity ammunition feeding device (which is defined to include any combination of parts from which such a device can be assembled.)

The ban on transfer and possession does not apply to (1) devices (or component parts) otherwise lawfully possessed on the date of enactment; (2) Federal departments and agencies and those of States and their subdivisions; (3) law enforcement officers authorized to purchase ammunition feeding devices for official use; devices transferred to such officers upon retirement who are not otherwise prohibited from receiving them; and (3) devices (or combination of parts) made, transferred, possessed, or imported for the pur-

AG00012671

Def. Exhibit 27
Page 001100

pose of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 4(b) defines large capacity ammunition feeding device to mean a magazine, belt, drum, feed strip, or similar device that has a capacity of more than 10 rounds, or can be readily restored or converted to accept more than 10 rounds. It includes any combination of parts from which such a device can be assembled. It exempts an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.

Subsection 4(c) adds large capacity ammunition feeding devices to the definition of "firearm" under 18 US Code section 921(a)(3).

Subsection 4(d) provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban.

Subsection 4(e) requires that large capacity ammunition feeding devices manufactured after the date of enactment be identified by a serial number that clearly shows the device was manufactured after the date or imported after the date of enactment, and such other identification as the Secretary of the Treasury may by regulation prescribe.

SECTION 5—STUDY BY ATTORNEY GENERAL

This section requires the Attorney General to study and report to the Congress no later than 30 months after its enactment the effects of the Act, particularly with regard to its impact—if any—on violent and drug-trafficking crime.

The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment.

SECTION 6—EFFECTIVE DATE

The Act and the amendment made by the Act take effect on the date of enactment and are repealed effective as of the date that is 10 years after that date.

SECTION 7—APPENDIX A TO SECTION 922 OF TITLE 18

This section adds, as Appendix A, a list of firearms that are specifically exempted from the ban on semiautomatic assault weapons.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

AG00012672

Def. Exhibit 27
Page 001101

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 4296 will have no significant inflationary impact on prices and costs in the national economy.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 4296, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE.
Washington, DC, May 2, 1994.

Hon. JACK BROOKS,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, as ordered reported by the House Committee on the Judiciary on April 28, 1994. We estimate that enactment of the bill would result in costs to the federal government over the 1995-1999 period of less than \$500,000 from appropriated amounts. In addition, we estimate that enactment of H.R. 4296 would lead to increases in receipts of less than \$10 million a year from new criminal fines. Such receipts would be deposited in the Crime Victims Fund and spent in the following year. Because the bill could affect direct spending and receipts, pay-as-you-go procedures would apply. The bill would not affect the budgets of state or local governments.

H.R. 4296 would ban the manufacture, transfer, and possession of certain semiautomatic assault weapons not lawfully possessed as of the date of the bill's enactment. The bill also would ban the transfer and possession of certain large-capacity ammunition feeding devices not lawfully possessed as of the date of enactment. In addition, H.R. 4296 would establish recordkeeping requirements for transfers of grandfathered weapons and would direct the Attorney General to conduct a study of the bill's impact. Finally, the bill would create new federal crimes and associated penalties—prison sentences and criminal fines—for violation of its provisions.

The new recordkeeping requirements and the impact study would increase costs to the Department of the Treasury and the Department of Justice, respectively, but we estimate that these costs would be less than \$500,000 over the next several years from appropriated amounts. The imposition of new criminal fines in H.R. 4296 could cause governmental receipts to increase through greater

AG00012673

Def. Exhibit 27
Page 001102

penalty collections. We estimate that any such increase would be less than \$10 million annually. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 44 OF TITLE 18, UNITED STATES CODE

* * * * *

CHAPTER 44—FIREARMS

§ 921. Definitions

(a) As used in this chapter—

(1) * * *

* * * * *

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; [or (D) any destructive device.] *(D) any destructive device; or (E) any large capacity ammunition feeding device.* Such term does not include an antique firearm.

* * * * *

(30) The term “semiautomatic assault weapon” means—

(A) any of the firearms, or copies or duplicates of the firearms, known as—

(i) Norinco, Mitchell, and Poly Technologies Automat Kalashnikovs (all models);

(ii) Action Arms Israeli Military Industries UZI and Galil;

(iii) Beretta Ar70 (SC-70);

(iv) Colt AR-15;

(v) Fabrique National FN/FAL, FN/LAR, and FNC;

(vi) SWD M-10, M-11, M-11/9, and M-12;

(vii) Steyr AUG;

(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

(i) a folding or telescoping stock;

AG00012674

Def. Exhibit 27
Page 001103

- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
- (v) a grenade launcher;
- (C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—
 - (i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
 - (ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
 - (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
 - (iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and
 - (v) a semiautomatic version of an automatic firearm; and
- (D) a semiautomatic shotgun that has at least 2 of—
 - (i) a folding or telescoping stock;
 - (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
 - (iii) a fixed magazine capacity in excess of 5 rounds; and
 - (iv) an ability to accept a detachable magazine.
- (31) The term “large capacity ammunition feeding device”—
 - (A) means—
 - (i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and
 - (ii) any combination of parts from which a device described in clause (i) can be assembled; but
 - (B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

§ 922. Unlawful acts

- (a) It shall be unlawful—

- * * * * *
- (v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.
- (2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.
- (3) Paragraph (1) shall not apply to—
 - (A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;
 - (B) any firearm that—
 - (i) is manually operated by bolt, pump, lever, or slide action;
 - (ii) has been rendered permanently inoperable; or

AG00012675

(iii) is an antique firearm;

(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

(4) Paragraph (1) shall not apply to—

(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

(5) As used in this subsection, the term “form 4473” means—

(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

(B) any other form which—

(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A).

AG00012676

Def. Exhibit 27
Page 001105

(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

(3) This subsection shall not apply to—

(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;

(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

APPENDIX A

Centerfire Rifles—Autoloaders

*Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M-1 Carbine
Iver Johnson 50th Anniversary M-1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle*

Centerfire Rifles—Lever & Slide

*Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Action Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine
Marlin Model 1894CS Carbine*

AG00012677

Def. Exhibit 27
Page 001106

Case 1:17-cv-10107-WGY Document 65-4 Filed 12/15/17 Page 109 of 125
30

Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica
Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Lever-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rifle
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle
Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
A-Square Caesar Bolt-Action Rifle
A-Square Hannibal Bolt-Action Rifle
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700D Bavarian Bolt-Action Rifle
Anschutz 1733D Mannlicher Rifle
Barret Model 90 Bolt-Action Rifle
Beeman/HW 60J Bolt-Action Rifle
Blaser R84 Bolt-Action Rifle
BRNO 537 Sporter Bolt-Action Rifle
BRNO ZKB 527 Fox Bolt-Action Rifle
BRNO ZKK 600, 601, 602 Bolt-Action Rifles
Browning A-Bolt Rifle
Browning A-Bolt Stainless Stalker
Browning A-Bolt Left Hand
Browning A-Bolt Short Action
Browning Euro-Bolt Rifle
Browning A-Bolt Gold Medallion
Browning A-Bolt Micro Medallion
Century Centurion 14 Sporter
Century Enfield Sporter #4
Century Swedish Sporter #38
Century Mauser 98 Sporter
Cooper Model 38 Centerfire Sporter
Dakota 22 Sporter Bolt-Action Rifle
Dakota 76 Classic Bolt-Action Rifle
Dakota 76 Short Action Rifles
Dakota 76 Safari Bolt-Action Rifle
Dakota 416 Rigby African
E.A.A./Sabatti Rover 870 Bolt-Action Rifle
Auguste Francotte Bolt-Action Rifles
Carl Gustaf 2000 Bolt-Action Rifle
Heym Magnum Express Series Rifle
Hova Lightning Bolt-Action Rifle
Hova Realtrec Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle

AG00012678

Def. Exhibit 27
Page 001107

Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine
Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable
C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System
Thompson/Center Contender Carbine Youth Model
Thompson/Center TCR '87 Single Shot Rifle
Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Baretta Express SSO O/U Double Rifles
Baretta Model 455 SxS Express Rifle
Chapuis RGExpress Double Rifle
Auguste Francotte Sidelock Double Rifles
Auguste Francotte Boxlock Double Rifle
Heym Model 55B O/U Double Rifle
Heym Model 55FW O/U Combo Gun
Heym Model 88b Side-by-Side Double Rifle
Kodiak Mk. IV Double Rifle
Kreighoff Teck O/U Combination Gun
Kreighoff Trumpf Drilling
Merkel Over/Under Combination Guns
Merkel Drillings
Merkel Model 160 Side-by-Side Double Rifles
Merkel Over/Under Double Rifles
Savage 24F O/U Combination Gun
Savage 24F-12T Turkey Gun
Springfield Inc. M6 Scout Rifle/Shotgun
Tikka Model 412s Combination Gun
Tikka Model 412S Double Fire
A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
AMT Lightning Small-Game Hunting Rifle II
AMT Magnum Hunter Auto Rifle
Anschutz 525 Deluxe Auto
Armstrong Model 20P Auto Rifle
Browning Auto-22 Rifle
Browning Auto-22 Grade VI
Krico Model 260 Auto Rifle
Lakefield Arms Model 64B Auto Rifle
Marlin Model 60 Self-Loading Rifle
Marlin Model 60ss Self-Loading Rifle
Marlin Model 70 HC Auto
Marlin Model 990I Self-Loading Rifle
Marlin Model 70P Papoose
Marlin Model 922 Magnum Self-Loading Rifle
Marlin Model 995 Self-Loading Rifle
Norinco Model 22 ATD Rifle
Remington Model 522 Viper Autoloading Rifle

AG00012679

Def. Exhibit 27
Page 001108

Remington 552BDL Speedmaster Rifle
Ruger 10/22 Autoloading Carbine (w/o folding stock)
Survival Arms AR-7 Explorer Rifle
Texas Remington Revolving Carbine
Voere Model 2115 Auto Rifle

Rimfire Rifles—Lever & Slide Action

Browning BL-22 Lever-Action Rifle
Marlin 39TDS Carbine
Marlin Model 39AS Golden Lever-Action Rifle
Remington 572BDL Fieldmaster Pump Rifle
Norinco EM-321 Pump Rifle
Rossi Model 62 SA Pump Rifle
Rossi Model 62 SAC Carbine
Winchester Model 9422 Lever-Action Rifle
Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher Rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armscor Model 14P Bolt-Action Rifle
Armscor Model 1500 Rifle
BRNO ZKM-452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60-J-ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle
Cabanas Leyre Bolt-Action Rifle
Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT-22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle
Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN "Little Buckaroo"
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU-KKW Training Rifle
Navy Arms TU-33/40 Carbine
Navy Arms TU-KKW Sniper Trainer
Norinco JW-27 Bolt-Action Rifle
Norinco JW-15 Bolt-Action Rifle
Remington 541-T
Remington 40-XR Rimfire Custom Sporter
Remington 541-T HB Bolt-Action Rifle
Remington 581-S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light Arms Model 20 RF Bolt-Action Rifle
Winchester Model 52B Sporting Rifle

AG00012680

Def. Exhibit 27
Page 001109

KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle
Krico Model 700 Bolt-Action Rifles
Mausser Model 66 Bolt-Action Rifle
Mausser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle
Navy Arms TU-33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1100M African Magnum
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle
Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle
Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle
Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter
Sako Safari Grade Bolt Action
Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sako Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG-S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle
Savage 110FXP3 Bolt-Action Rifle

AG00012681

Def. Exhibit 27
Page 001110

Savage 110GV Varmint Rifle
Savage 112FV Varmint Rifle
Savage Model 112FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle
Savage 116FSS Bolt-Action Rifle
Savage Model 116FSK Kodiak Rifle
Savage 110FP Police Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifles
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle
Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2165 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weatherguard Rifle
Wichita Classic Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM-S Rifle
Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G-90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle
Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle

AG00012682

Def. Exhibit 27
Page 001111

Competition Rifles—Centerfire & Rimfire

Anschutz 64—MS Left Silhouette
Anschutz 1808D RT Super Match 54 Target
Anschutz 1827B Biathlon Rifle
Anschutz 1903D Match Rifle
Anschutz 1803D Intermediate Match
Anschutz 1911 Match Rifle
Anschutz 54.18MS REP Deluxe Silhouette Rifle
Anschutz 1913 Super Match Rifle
Anschutz 1907 Match Rifle
Anschutz 1910 Super Match II
Anschutz 54.18MS Silhouette Rifle
Anschutz Super Match 54 Target Model 2013
Anschutz Super Match 54 Target Model 2007
Beeman/Feinwerkbau 2600 Target Rifle
Cooper Arms Model TRP-1 ISU Standard Rifle
E.A.A./Weihrauch HW 60 Target Rifle
E.A.A./HW 660 Match Rifle
Finnish Lion Standard Target Rifle
Krico Model 360 S2 Biathlon Rifle
Krico Model 400 Match Rifle
Krico Model 360S Biathlon Rifle
Krico Model 500 Kricotronic Match Rifle
Krico Model 600 Sniper Rifle
Krico Model 600 Match Rifle
Lakefield Arms Model 90B Target Rifle
Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86—SR Specialty Rifle
McMillan M-86 Sniper Rifle
McMillan Combo M-87/M-88 50-Caliber Rifle
McMillan 300 Phoenix Long Range Rifle
McMillan M-89 Sniper Rifle
McMillan National Match Rifle
McMillan Long Range Rifle
Parker-Hale M-87 Target Rifle
Parker-Hale M-85 Sniper Rifle
Remington 40—XB Rangemaster Target Centerfire
Remington 40—XR KS Rimfire Position Rifle
Remington 40—XBBR KS
Remington 40—XC KS National Match Course Rifle
Sako TRG-21 Bolt-Action Rifle
Steyr-Mannlicher Match SPG-UIT Rifle
Steyr-Mannlicher SSG P-I Rifle
Steyr-Mannlicher SSG P-III Rifle
Steyr-Mannlicher SSG P-IV Rifle
Tanner Standard UIT Rifle
Tanner 50 Meter Free Rifle
Tanner 300 Meter Free Rifle
Wichita Silhouette Rifle

Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL
Benelli Super Black Eagle Shotgun
Benelli Super Black Eagle Slug Gun
Benelli M1 Super 90 Field Auto Shotgun
Benelli Montefeltro Super 90 20-Gauge Shotgun
Benelli Montefeltro Super 90 Shotgun
Benelli M1 Sporting Special Auto Shotgun
Benelli Black Eagle Competition Auto Shotgun
Beretta A-303 Auto Shotgun
Beretta 390 Field Auto Shotgun
Beretta 390 Super Trap, Super Skeet Shotguns
Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun

AG00012683

Browning Bsa 10 Stalker Auto Shotgun
Browning A-500R Auto Shotgun
Browning A-500G Auto Shotgun
Browning A-500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun
Remington Model 1100 Shotgun
Remington 11-87 Premier Shotgun
Remington 11-87 Sporting Clays
Remington 11-87 Premier Skeet
Remington 11-87 Premier Trap
Remington 11-87 Special Purpose Magnum
Remington 11-87 SPS-T Camo Auto Shotgun
Remington 11-87 Special Purpose Deer Gun
Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun
Remington 11-87 SPS-Deer Shotgun
Remington 11-87 Special Purpose Synthetic Camo
Remington SP-10 Magnum-Camo Auto Shotgun
Remington SP-10 Magnum Auto Shotgun
Remington SP-10 Magnum Turkey Combo
Remington 1100 LT-20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT-20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS Pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586-VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugster
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun

AG00012684

Def. Exhibit 27
Page 001113

Remington 879 SPS Special Purpose Magnum
Remington 870 SPS-T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunter Sport O/U Shotgun
Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux Over/Under
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A./Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K-80 Sporting Clays O/U
Krieghoff K-80 Skeet Shotgun
Krieghoff K-80 International Skeet
Krieghoff K-80 Four-Barrel Skeet Set
Krieghoff K-80/RT Shotguns
Krieghoff K-80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljutic LM-6 Deluxe O/U Shotgun

AG00012685

Def. Exhibit 27
Page 001114

Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun
Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders
Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun
SKB Model 505 Deluxe Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun
Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns
Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun
AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Saba-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun
Auguste Francotte Sidelock Shotgun
Garbi Model 100 Double
Garbi Model 101 Side-by-Side
Garbi Model 103A, B Side-by-Side
Garbi Model 200 Side-by-Side
Bill Hanus Birdgun Doubles
Hatfield Uplander Shotgun

AG00012686

Def. Exhibit 27
Page 001115

Merkell Model 8, 47E Side-by-Side Shotguns
Merkel Model 47LSC Sporting Clays Double
Merkel Model 47S, 147S Side-by-Sides
Parker Reproductions Side-by-Side
Piotti King No. 1 Side-by-Side
Piotti Lunik Side-by-Side
Piotti King Extra Side-by-Side
Piotti Puma Side-by-Side
Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Uplander Side-by-Side Shotgun
Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun
Browning BT-99 Competition Trap Special
Browning BT-99 Plus Trap Gun
Browning BT-99 Plus Micro
Browning Recoilless Trap Shotgun
Browning Micro Recoilless Trap Shotgun
Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS-6 Trap Gun
Krieghoff KS-6 Special
Krieghoff K-80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel
Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Slug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90-T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun.

§ 923. Licensing

(a) * * *

* * * * *

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer. *The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured. A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.*

AG00012687

§ 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (a)(6), (f), (k), [or (q) of section 922] (r), (v), or (x) of section 922;

* * * * *

(6) *A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph.*

* * * * *

(c)(1) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

* * * * *

AG00012688

Def. Exhibit 27
Page 001117

SUPPLEMENTAL VIEWS OF HON. DAN GLICKMAN

I supported this bill because it is a narrowly crafted bill focused on specific weapons that have no business being on our streets. It is aimed at rapid fire weapons that have the sole purpose of killing people, and it is aimed at weapons that are more suited for the battlefield than the target range.

I believe that violence in our nation is getting out of hand. It is devastating to read that a student killed a student with a semi-automatic weapon. But it is equally devastating to hear of students killing students with anyone. What we really need to focus on is why students are engaging in violence in the first place. For this reason, I think this legislation must be viewed as part of the effort to reduce crime—in conjunction with the comprehensive crime bill that increases penalties, calls for tougher sentencing, provides for more jails and police officers, and provides for prevention programs.

But we must not abrogate the Second Amendment rights that are provided for in the Constitution. We must be extremely careful that in this legislation and in any legislation in the future, that we are not taking away guns that truly are used for sports, hunting, or self-defense.

I don't believe that this bill is the first step in a long road to banning guns. However, some of my constituents have expressed their fear that the Congress is moving slowly toward banning all guns for all people. We must be absolutely clear that this narrowly crafted legislation is not that first step and is not just a precursor to further, broader federal gun control and federal gun bans. Sport shooters and hunters tell me that they don't want assault weapons on the streets and in the hands of gang members any more than anyone else. But what they don't want is for Congress to take the short step to saying that the hunting rifles are being used on the streets, and should be taken away. And then the handguns are being used on the streets and should be taken away.

I want to make sure that what we are doing has a purpose—that it gets at the weapons that are being used by gang members and others in killing sprees or other random violence. I want to be able to assure the hunters, sport shooters and folks who want to be prepared for self-defense that we're not going to turn around and tell these gun owners that their sporting guns are illegal. This is a good bill, but let's tread very carefully before going any further.

Finally, because I want to make sure that there is no mistake about which guns are banned and which are exempt, especially guns that will be developed in the future, I offered an amendment during Committee markup that was accepted by the Committee. This amendment clarifies that simply because a gun is not on the list of specifically exempted guns, does not mean that that firearm is banned. A firearm must meet the specific criteria set out in the

(41)

AG00012689

Def. Exhibit 27
Page 001118

bill, or be specifically named as a banned gun before it can be banned. In other words, the exempted gun list is not exhaustive.

Furthermore, my amendment makes clear that no gun may be taken off the list of specifically exempted guns as long as the act is in effect. In this way, it is absolutely clear that the intent of Congress is that exempted guns remain exempted.

AG00012690

Def. Exhibit 27
Page 001119

Case 1:17-cv-10107-WGY Document 65-4 Filed 12/15/17 Page 122 of 125

DISSENTING VIEWS OF HON. F. JAMES SENSENBRENNER,
JR., HON. GEORGE GEKAS, HON. LAMAR S. SMITH, HON.
BILL MCCOLLUM, HON. HOWARD COBLE, HON. STEVE
SCHIFF, AND HON. BOB GOODLATTE

We strongly oppose H.R. 4296 which would ban a variety of guns. The primary problem with this bill is that it targets law abiding citizens. If this bill passes, simply possessing a shotgun or rifle could land you in jail. You don't have to shoot anybody. You don't have to threaten anyone, just leaving it in the hall closet is enough to land you in jail. Even if you use the gun for self-defense, you can go to jail.

It is already a federal crime for convicted criminals to possess these weapons, or any other gun for that matter. The laws aimed at these criminals should be fully enforced before we start going into the homes of law-abiding citizens and arresting them.

Another problem with this legislation is that simple, cosmetic changes to certain guns would turn those guns from being illegal to, all of a sudden being legal. For example, simply by removing a pistol grip, or a bayonet mount from a rifle saves the owner from going to jail, but leaves the gun's performance unaffected.

Finally, the problem of these guns has been greatly exaggerated. Although semiautomatic weapons are used in the most high profile killings that make it on the nightly news, in fact, more than 99 percent of killers eschew assault rifles and use more prosaic devices. According to statistics from the Justice Department and reports from local law enforcement, five times as many people are kicked or beaten to death than are killed with assault rifles.

Passing this legislation is an excuse to avoid the real issues of violent crime, and threatens the rights of law-abiding citizens. Therefore, we oppose H.R. 4296.

F. JAMES SENSENBRENNER, Jr.
GEORGE W. GEKAS.
LAMAR SMITH.
BILL MCCOLLUM.
HOWARD COBLE.
STEVE SCHIFF.
BOB GOODLATTE.

(43)

AG00012691

Def. Exhibit 27
Page 001120

DISSENTING VIEWS OF HON. JACK BROOKS

I am strongly opposed to H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, because it misidentifies the causes of violent crime in the United States; diverts national priorities away from meaningful solutions to the problem of violent crime; punishes honest American gun owners who buy and use firearms for legitimate, lawful purposes such as, but not necessarily limited to, self-defense, target shooting, hunting, and firearms collection; fails to focus the punitive powers of government upon criminals. Most fundamentally, a prohibition on firearms violates the right of individual Americans to keep and bear arms, protected by the Second Amendment to the Constitution of the United States—a stark fact of constitutional life that the proponents of H.R. 4296 conveniently overlook in their zeal to abridge the rights of law-abiding citizens.

Reasons claimed to justify a prohibition on the firearms that would be affected by H.R. 4296 include the assertion that those particular firearms are used often in the commission of violent crimes. Data on the use of the firearms H.R. 4296 labels as “assault weapons” is not comprehensive, but such data as do exist consistently show that “assault weapons” are involved in a small percentage of violent crimes.

Most of the firearms labelled as “assault weapons” in H.R. 4296 are rifles—yet rifles are the general category of firearms used least often in the commission of violent crimes. The FBI Uniform Crime Reports, 1992, the most recent comprehensive data available, shows that rifles of any description are used in 3.1 percent of homicides, for example, while knives are used in 14.5 percent, fists and feet are used in 5 percent, and blunt objects are used in another 5 percent.

Professor Gary Kleck, of Florida State University, the 1993 recipient of the American Society of Criminology's Hindelang Award, estimates that one-half of 1 percent of violent crimes are committed with “assault weapons.” University of Texas criminologist Sheldon Ekland-Olson estimates that one-quarter of rifle-related homicides may involve rifles chambered for military cartridges, which would include not only so-called “assault” type semi-automatic rifles, but non-semiautomatic rifles as well.

Since 1980, rifle-related homicides have declined by more than a third. According to the Metropolitan Police of Washington, D.C., the city which has the highest per capita rate of homicides of any major city in the United States, between 1980–1993 there occurred only 4 rifle-related homicides out of a total of more than 4,200 homicides in the period. The last rifle homicide during the period was recorded in 1984. Other data from D.C. police show that rifles are used in about one-tenth of 1 percent of robberies and assaults.

(44)

AG00012692

Def. Exhibit 27
Page 001121

The California Department of Justice surveyed law enforcement agencies in the state in 1990, as the state's legislature addressed "assault weapon" ban legislation there. The California Department of Justice found that only 3.7 percent of the firearms that are used in homicides and assaults were "assault weapons," defined there to include even more firearms than are defined as "assault weapons" in H.R. 4296.

Connecticut State Police report that less than 2 percent of firearms seized by police in the state are "assault weapons"; the Massachusetts State Police report that "assault" type rifles were used in one-half of 1 percent of homicides between 1985-1991.

I believe the proponents of H.R. 4296 are in error in claiming that the Bureau of Alcohol, Tobacco and Firearms (BATF) has traced a large number of "assault weapons" to crime. This claim has been effectively contradicted by both the BATF itself and the Congressional Research Service's (CRS) report on the BATF firearms tracing system. The BATF has stated that it "does not always know if a firearm being traced has been used in a crime." For instance, sometimes a firearm is traced simply to determine the rightful owner after it is found by a law enforcement officer.

Each year, the BATF traces about 50,000 firearms, yet only about 1 percent of these traces relate to "assault weapons" that have been seized by police in the course of investigations of violent crimes. Most "assault weapons" traced relate not to violent crime but to property violations, such as stolen guns being traced so that they may be returned to their lawful owners, violations of the Gun Control Act, and other non-violent circumstances.

As noted by BATF and by CRS in its report to Congress entitled "Assault Weapons: Military-Style Semiautomatic Firearms Facts and Issues" (1992) that firearms traces are not intended to "trace guns to crime," that few "assault weapons" traced relative to violent crime investigations, and that available state and local law enforcement agency data shows relatively little use of "assault weapons" are used frequently in violent crimes.

"Assault weapons" function in the same manner as any other semi-automatic firearm. They fire once with each pull of the trigger, like most firearms. They use the same ammunition as other firearms, both semi-automatic and not. Therefore, "assault weapons" are useful for target shooting, self-defense, hunting, and other legitimate purposes, just as other firearms are.

H.R. 4296 would prohibit rifles that are commonly used for competitive shooting, such as the Springfield N1A and the Colt "AR-15."

Accessories found on some models of "assault weapons," such as folding stocks, flash suppressors, pistol grips, bayonet lugs, and detachable magazines may look menacing to persons unfamiliar with firearms, but there is absolutely no evidence that any of these accessories provide any advantage to a criminal. As has been demonstrated on many occasions, firearms which H.R. 4296 specifically exempts from its prohibition, firearms not equipped with those accessories, can be fired at the same rate, with the same accuracy, and with the same power as "assault weapons."

Time and again, supporters of H.R. 4296 have claimed that "assault weapons" can be "spray-fired from the hip"; but this is simply

AG00012693

Def. Exhibit 27
Page 001122

not true. The firearms targeted in H.R. 4296 are not machineguns. Machineguns are restricted under the National Firearms Act of 1934. H.R. 4296's guns are semi-automatic, and fire only one shot at a time.

H.R. 4296's limitation on the capacity of ammunition feeding devices would do nothing to reduce the number of rounds available to a criminal. It has been demonstrated frequently that such devices can be switched in less than a second, so a criminal determined to have available a number of rounds greater than H.R. 4296 would permit in a single magazine would need only to possess additional smaller magazines. However, police have reportedly consistently that when criminals fire shots, they rarely discharge more than 2-5 rounds, well below the number of rounds H.R. 4296 would permit in a single magazine.

Most fundamentally, to impinge upon the constitutionally-protected rights of honest, law-abiding Americans on the basis of myth, misinformation, and newspaper headlines is a crime in and of itself. To protect against such a mockery of our Constitution and the infliction of such harm upon our citizens, I intend to oppose H.R. 4296 vigorously on the House floor in the hope that careful reflection will permit cooler heads and the light of reason to prevail.

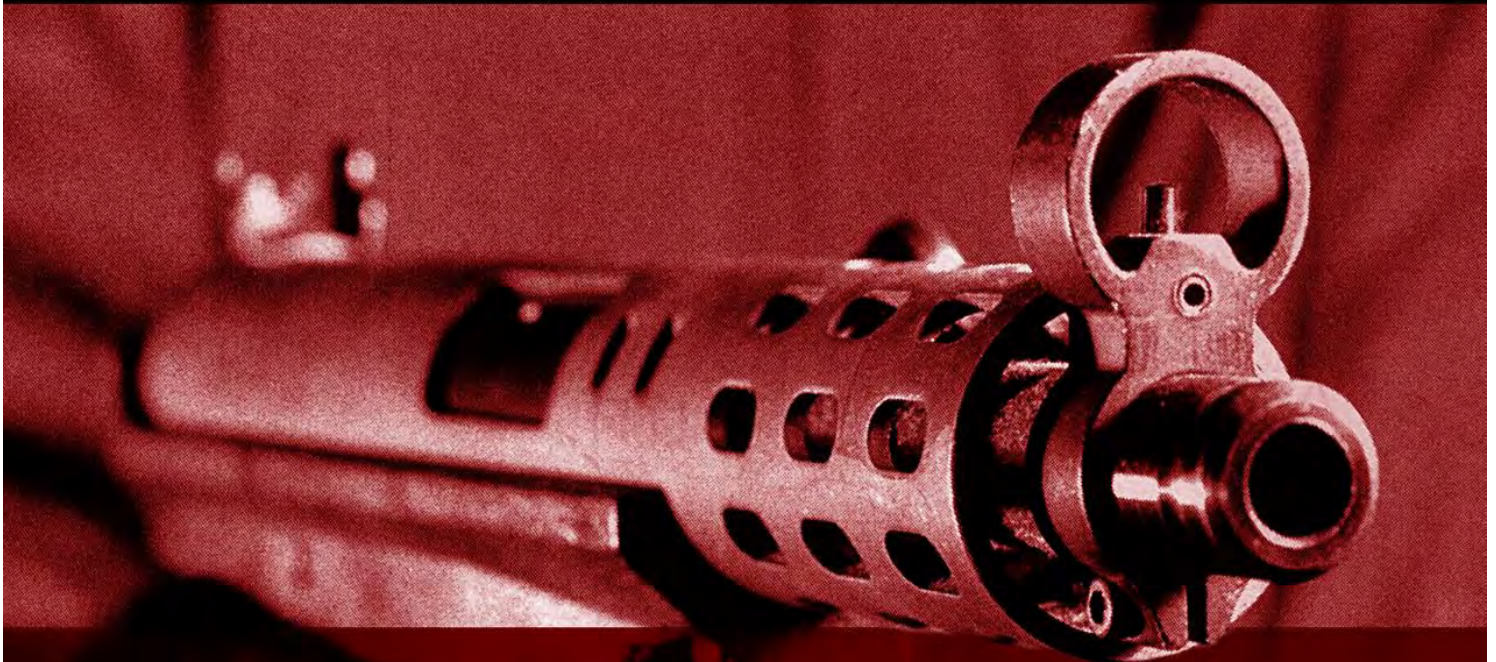
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AG00012694

Def. Exhibit 27
Page 001123

EXHIBIT 6
TO THE DECLARATION OF JOHN D. ECHEVERRIA

Assault Weapons "Mass Produced Mayhem"



**Brady Center to Prevent Gun Violence
October 2008**

Def. Exhibit 20
Page 000927

Assault Weapons: “Mass Produced Mayhem”

**Brady Center to Prevent Gun Violence
October 2008**



Def. Exhibit 20
Page 000929

October 2008

ACKNOWLEDGEMENTS

The Brady Center to Prevent Gun Violence is a national non-profit organization working to reduce the tragic toll of gun violence in America through education, research, and legal advocacy. Through its project, *Gun Industry Watch*, the Brady Center works to monitor and publicly expose gun industry practices that contribute to gun violence, with the goal of bringing about life-saving industry reform. The programs of the Brady Center complement the legislative and grassroots mobilization efforts of its sister organization, the Brady Campaign to Prevent Gun Violence and its network of Million Mom March Chapters.

Assault Weapons: "Mass Produced Mayhem" was written by Brian J. Siebel. Thanks go to Robyn Steinlauf, Sarah McLemore, Molly Warren, Lindsay Brooker, Talesia Simon, Natalie Durham, and Elizabeth Haile for their assistance in preparing this report. If you have questions about any part of this report, or would like a copy, please write to *Gun Industry Watch*, Brady Center to Prevent Gun Violence, 1225 Eye Street, N.W., Suite 1100, Washington D.C. 20005. The report and other Gun Industry Watch reports are also available at www.bradycenter.org/gunindustrywatch and www.gunlawsuits.org.

A Note About the Title

The phrase "mass produced mayhem" is taken from the federal Bureau of Alcohol, Tobacco, Firearms and Explosive's description of assault weapons in its "Assault Weapons Profile" (April 1994).

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ii

Def. Exhibit 20
Page 000930

Table of Contents

Executive Summary.....	iv
Assault Weapons Are Designed to Slaughter People	1
Assault Weapons Threaten Law Enforcement and Terrorize Civilians.....	3
Police Outgunned	3
Civilians Massacred.....	7
Crime Use Disproportionate	10
Terrorists Armed.....	10
Assault Weapons Have No Sporting or Self-Defense Purpose	14
“Dangerous and Unusual” Weapons Are Not Protected by the Second Amendment.....	18
A Strong Federal Assault Weapons Ban Should Be Enacted.....	19
Effect of 1994 Federal Ban	19
Support by Law Enforcement, the Public, and Presidents.....	20
Conclusion	22
Appendix: Examples of Assault Weapons Violence Reported Since Federal Ban Expired	23
Endnotes	50



Executive Summary

Assault weapons are military-style weapons of war, made for offensive military assaults. It is no accident that when a madman, Gian Luigi Ferri, decided to assault the law offices at 101 California Street in San Francisco, he armed himself with two TEC-9 assault weapons with 50-round magazines, which enabled him to kill eight people and wound six others.¹ Or that the Columbine high school shooters, who killed 12 students and a teacher, included a TEC-9 assault pistol in their arsenal.² Or that the Branch-Davidians at Waco, Texas, accumulated an arsenal of assault weapons to prepare for battle against the federal government, including 123 AR-15s, 44 AK-47s, two Barrett .50 calibers, two Street Sweepers, an unknown number of MAC-10 and MAC-11s, 20 100-round drum magazines, and 260 large-capacity banana clips.³ Or that James Huberty used an UZI assault pistol and a shotgun to kill 21 people and wound 19 others at a McDonald's in San Ysidro, California.⁴ Or that Patrick Purdy used an AK-47 assault rifle to kill five children and wound 29 others and a teacher at an elementary school in Stockton, California. Equipped with a 75-round "drum" magazine, Purdy was able to shoot 106 rounds in less than two minutes.⁵ The list of horrific attacks goes on.⁶

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has called assault weapons "mass produced mayhem."⁷ They have been weapons of choice for gangs, drug dealers, and mass killers. They have been used to slaughter innocents in numerous high-profile shootings, and have been used to outgun police officers on the streets. They are of no use for hunters and are counterproductive for lawful defense of one's home. Law enforcement throughout the nation has called for them to be banned. Presidents Gerald Ford, Jimmy Carter, Ronald Reagan, Bill Clinton, and George W. Bush did not agree on much, but they all supported an assault weapons ban.

For ten years, from 1994-2004, federal law banned these weapons of war. Although this now-expired law was limited in scope, and was circumvented by many gun manufacturers, it reduced the use of assault weapons in crime. The experience suggests that a stronger, more comprehensive law would enhance public safety even more.

In the four years since the federal ban expired, hundreds of people have been killed in this country with military-style assault weapons. This report lists incidents in which at least 163 people have been killed and 185 wounded in with assault weapons, including at least 38 police officers killed or wounded by them. Moreover, as these incidents are only those that we could find reported in the press, the actual tally of fatalities and injuries is almost certainly much higher.

Since the federal assault weapon expired in 2004, politicians from President George W. Bush to Senator John Warner have called for its renewal. But on this issue, the two major presidential candidates offer two starkly opposing views: Senator Barack

iv

Def. Exhibit 20
Page 000932

Obama has stated as recently as his convention acceptance speech that it is imperative that criminals be denied the use of assault weapons. Senator John McCain, who has opposed the NRA on gun shows and other issues, has been firm in his opposition to assault weapon bans. The question should be asked of the candidates, "Senator, why should civilians be allowed to wield these weapons of war?"

This report provides the factual basis for answering that question, and makes the evidentiary case for an assault weapons ban. The report also outlines how the availability of assault weapons to criminals has altered the balance of power on urban streets between police and criminals, placing police officers in grave risk of harm.

SWD M-10, M-11, M-11/9, and M-12 Assault Pistol



AK-47 Assault Rifle (Many variants)



v

Def. Exhibit 20
Page 000933

Assault Weapons Are Designed to Slaughter People

Assault weapons are semiautomatic versions of fully automatic guns designed for military use. These guns unleash extraordinary firepower. When San Jose, California, police test-fired an UZI, a 30-round magazine was emptied in slightly less than two seconds on full automatic, while the same magazine was emptied in just five seconds on semiautomatic.⁸

As the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) has explained:

Assault weapons were designed for rapid fire, close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck blind or at the Olympics. **They are mass produced mayhem.**⁹

ATF has also described semiautomatic assault weapons as “large capacity, semi-automatic firearms designed and configured for rapid fire, combat use.... Most are patterned after machine guns used by military forces.”¹⁰ In short, as a Montgomery County, Alabama Sheriff has said: “[T]here’s only one reason for owning a gun like that – killing people. There’s no other use other than to kill people. That’s all they’re made for.”¹¹

Assault weapons have distinct features that separate them from sporting firearms.¹² While semiautomatic hunting rifles are designed to be fired from the shoulder and depend upon the accuracy of a precisely aimed projectile, the military features of semiautomatic assault weapons are designed to enhance their capacity to shoot multiple human targets very rapidly. Assault weapons are equipped with large-capacity ammunition magazines that allow the shooter to fire 20, 50, or even more than 100 rounds without having to reload. Pistol grips on assault rifles and shotguns help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position. Barrel shrouds on assault pistols protect the shooter’s hands from the heat generated by firing many rounds in rapid succession. Far from being simply “cosmetic,” these features all contribute to the unique function of any assault weapon to deliver extraordinary firepower. They are uniquely military features, with no sporting purpose whatsoever.¹³

Accordingly, ATF has concluded that assault weapons “are not generally recognized as particularly suitable for or readily adaptable to sporting purposes” and instead “are attractive to certain criminals.”¹⁴ An ATF survey of 735 hunting guides, conducted during the administration of President George H.W. Bush, found that sportsmen do not use assault weapons.¹⁵ These findings were confirmed in a second study performed by ATF under the Clinton Administration.¹⁶



A researcher hired by the Department of Justice to analyze the effect of the 1994 federal ban on assault weapons confirmed that the firepower of assault weapons gives them greater destructive potential. His analysis found that:

attacks with semiautomatics – including assault weapons and other semiautomatics equipped with large capacity magazines – result in more shots fired, more persons hit, and more wounds inflicted per victim than do attacks with other firearms.¹⁷

This contradicts the National Rifle Association's ("NRA") assertion that there are only "cosmetic" differences between the guns affected by the assault weapon ban and other firearms.

TEC-9, TEC-DC-9, and TEC-22 Assault Pistol



Steyr AUG Assault Rifle



Assault Weapons Threaten Law Enforcement and Terrorize Civilians

Since the federal assault weapons ban expired in September 2004, assault weapons have again flooded our streets, causing mayhem. Law enforcement agencies throughout the United States have reported an upward trend in assault weapons violence, forcing many police departments to invest in expensive assault weapons to keep from being outgunned by criminals. However, even with greater firepower and the availability of bulletproof vests, many officers have lost their lives to assault weapon attacks. Hundreds of civilians have also been victimized by assault weapons, many of them in multiple-victim attacks. In an appendix to this report, we list more than 200 assault weapons shootings and attacks that have occurred since the federal ban expired – and the list does not purport to be comprehensive. Assault weapons may not be used in the majority of crimes – handguns are – but they are disproportionately used in crime compared to their numbers in circulation. Moreover, assault weapons have special appeal to terrorists. They have no place in a civilized society.

Police Outgunned

Law enforcement has reported that assault weapons are the “weapons of choice” for drug traffickers, gangs, terrorists, and paramilitary extremist groups. As Los Angeles Police Chief William Bratton said:

There is a reason that these weapons are so appealing to criminals. They are designed to be easily concealed and kill as many people as possible as quickly as possible. Congress must act and act now to protect the American public and our police officers from these deadly weapons. This is about public safety and law enforcement.¹⁸

Law enforcement officers are at particular risk from these weapons because of their high firepower, which often leaves them outgunned by criminals. A researcher for the Department of Justice found that:

[A]ssault weapons account for a larger share of guns used in mass murders and murders of police, crimes for which weapons with greater firepower would seem particularly useful.¹⁹

Indeed, numerous law enforcement officers have been killed with high-firepower assault weapons.²⁰ In black sidebars on the following pages, we list ten cases of officers down since the federal assault weapons ban expired in September 2004. Unfortunately, there have been many more.²¹



OFFICERS DOWN**San Antonio, Texas. September 8, 2008.**

A man shot two police officers with an assault rifle when the police attempted to arrest him. A standoff between the suspect and police followed, ending hours later when the suspect shot and killed himself.²²

Tucson, Arizona. June 1, 2008.

A man shot at several houses with an assault rifle, then lead police in pursuit across Tucson for more than an hour. During the chase, the gunman shot at police multiple times, fatally shooting one officer and injuring two Sheriff's deputies.²³

Philadelphia, Pennsylvania. May 3, 2008.

Officer Stephen Liczbinski was shot and killed by an assault rifle as he was responding to a robbery at a Bank of America branch. Three men robbed the bank and were fleeing when Officer Liczbinski stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking Liczbinski numerous times. One suspect was eventually shot and killed by police and the other two were arrested and charged with murder.²⁴

Miami, Florida. September 13, 2007.

Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The suspect got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home and were granted permission to search by a female resident. The suspect grabbed a high-powered, military-style assault rifle and fired at the police officers through a window, killing Officer Jose Somohano. The suspect then exited the house and shot three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.²⁵

Floyd County, Indiana. June 18, 2007.

Two officers responded to a domestic disturbance call between a mother and her son. The officers were speaking with the mother on the driveway when the 15-year-old son ambushed both officers from an upstairs window and shot at them with a high-powered assault rifle. One officer was killed and the other was seriously wounded.²⁶

In addition, police departments have found that the ban's expiration has led to increased criminal access to assault weapons and levels of violent crime, forcing many to outfit their officers with assault rifles of their own.²⁷ An informal survey of about 20 police departments conducted by the International Association of Chiefs of Police revealed that since 2004, all of the agencies have either added assault weapons to patrol units or replaced existing weapons with military-style assault weapons.²⁸

"We're in an arms race," said Police Chief Scott Knight, chairman of the firearms committee of the International Association of Chiefs of Police.²⁹ Indeed, data collected from ATF found that, since 2005, the first full year after the federal ban on assault weapons expired, ATF recorded an 11% increase in crime gun tracings of AK-47-type assault weapons.³⁰

The Chicago Police Department reported a 10% increase in the number of assault weapons seized. Superintendent Phil Cline said, "[t]hese are guns that can shoot up to 30 rounds with a couple pulls of the trigger. And it puts our police in grave danger out there. So, we'd like still to see some kind of ban, either by the state or federally."³¹

In 2006, law enforcement in Miami noted the effect of the expiration of the assault weapons ban on the rash of crimes used with these now-legal weapons.



County state attorney Katherine Fernandez-Rundle stated that the AK-47 is the "favorite weapon" of dangerous gangs gaining influence in Miami.³² Miami-Dade Police Director Robert Parker stated "there was nothing positively gained by the lifting of the ban on assault weapons by the government."³³

Just over a year later, Miami police said that the amount of assault weapons they recovered, and homicides using assault weapons, had continued to increase. While just four percent of homicides in Miami in 2004 were committed with assault weapons, in 2007, it was one in five.³⁴ "It's almost like we have water pistols going up against these high-powered rifles," said John Rivera, president of the Dade County Police Benevolent Association. "Our weaponry and our bulletproof vests don't match up to any of those types of weapons."³⁵

The death of Miami police officer Sgt. Jose Somohano - killed by a shooter wielding a MAK-90 three years to the day after the federal ban expired - prompted Miami Police Chief John Timoney for the first time to authorize officers to start carrying assault weapons. The Chief blamed the expiration of the federal ban for the current "arms race" between police and drug gangs using assault weapons:

This is really a failure of leadership at the national level. We are absolutely going in the wrong direction here. The whole thing is a friggin disgrace.³⁶

He added:

Two or three years ago, we had the lowest homicide rate since 1967 in Miami. Then the homicides skyrocketed with the availability of AK-47s. And it went from 3% of all homicides being committed with AKs, up to 9% two years ago, then 18% last year, and this year it is around 20%. And it's going up.... We're being flooded with these AK-47s."³⁷

Shootings involving assault weapons were among the reasons U.S. Attorney R. Alexander Acosta set up an anti-gang task force of federal, state, and local law enforcement officials in Florida in 2007. Fifteen federal prosecutors were assigned to the effort. Said Acosta of assault weapons:

These bullets are very powerful: they go through walls, they go through cars, and if you just spray the general vicinity you're going to get innocent bystanders. A shooting that might have been an injury previously is now a death.³⁸

Pittsburgh law enforcement also has noticed an increase in criminal use of assault weapons since the expiration of the ban. Firearms like the AK-47 and Soviet SKS Carbine have become the weapons of choice for street criminals. Pittsburgh's Assistant Chief of Police William Mullen blamed the expiration of the ban for this



OFFICERS DOWN

Biloxi, Mississippi. June 5, 2007. A gunman with an AK-47 ambushed police officers in a shootout, killing one, then shooting himself. The gunman lured police by firing shots in the neighborhood and waiting. After shooting one officer, the gunman unloaded an additional round into the patrol car. The gunman had a cache of backup guns and ammunition waiting inside his home.³⁹

Chantilly, Virginia. May 8, 2006. A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station in suburban Virginia, killing Detective Vicky Armel immediately and wounding two other officers, one of whom, Officer Michael Garbarino, died nine days later from his injuries.⁴⁰

Las Vegas, Nevada. February 1, 2006. A 22-year-old fired at least 50 rounds from an assault rifle, shooting two Las Vegas police officers and killing one, before being shot and killed by the surviving officer.⁴¹

Livingston County, Kentucky. June 2, 2005. A deputy was shot when he responded to a domestic disturbance call placed by a couple's 18-year-old daughter. When the officer entered the home, a male fired at least 8 rounds from an assault rifle at him, hitting him four times and killing him. The officer was able to fire one round which killed the gunman.⁴²

Ceres, California. January 9, 2005. A 19-year-old Marine armed with an SKS assault rifle shot two police officers, killing one, in a gun battle outside a liquor store.⁴³

increase and noted, "[t]here's a lot more assault weapons in the area in districts now than ever before."⁴⁴

In Houston, where homicides were up significantly in 2006, Police Chief Harold Hurtt said the AK-47 assault rifle had become "a weapon of choice" among warring gangs.⁴⁵

Palm Beach County police have noted an alarming trend of AK-47 use in violent crimes. Sheriff's Lieutenant Mike Wallace said: "It seems to be the weapon of choice right now. It's a weapon of war, and the function is to kill and maim. When somebody gets hit with that, it causes horrendous damage."⁴⁶ Sergeant Laurie Pfiel of the same office said: "[Criminals] don't have .38s anymore. They have AK-47s."⁴⁷

Martin County Sheriff's Office Captain Ed Kirkpatrick of Florida details the effect of criminal possession of assault weapons on effective law enforcement: "Everyone is taking more precautions. When you stop a car in the middle of the night, you [didn't] think about it. Now you do. These are very powerful weapons."⁴⁸

Franklin County, North Carolina Sheriff Pat Green said: "I've been in this business 25 years, and it's just getting worse," referring to a report that they have been finding more and more assault weapons at crime scenes in the state.⁴⁹ In South Carolina, Lieutenant Ira Parnell, head of the State Law Enforcement Division's firearms lab, noted that investigators are seeing an increase in criminal use of AK-47 and SKS assault rifles.⁵⁰

Fort Wayne, Indiana police reported a significant spike in seizures of assault weapons since the ban expired, from two in 2003, to nine in 2004, eight in 2005, 29 in 2006, and 20 in 2007. "[W]e're certainly seeing them more and more," said Police Chief Rusty York.⁵¹ Similarly, Omaha, Nebraska police seized 39 assault rifles in 2007, up from nine in 2006.⁵²



In San Francisco, Police Officers Association President Gary Delanges said: "Just about every crook you run into out there [who] is a drug dealer or a gang banger's got one of these weapons. And it's putting our officers' lives at risk."⁵³ Deputy Chief Morris Tabak displayed some of the seized assault weapons, including a .22 caliber gun modified to hold 100 rounds. "These are what could be described only as anti-personnel weapons," he said.⁵⁴

Israeli Military Industries Action Arms UZI Assault Rifle



Civilians Massacred

Assault weapons have been used to perpetrate some of the most horrific crimes, including mass murders, ever committed in the United States. Some of the most infamous ones are cited in the Executive Summary of this report. Unfortunately, this gruesome death toll has grown since the expiration of the 10-year federal ban on assault weapons.

As can be seen from the following examples, assault weapons have been used to kill civilians engaged in common activities of life, in all types of circumstances and places. The Appendix lists more than 200 examples from just the last four years.

- **Teens slaughtered at a swimming hole in Wisconsin**

On July 31, 2008, a man used an assault rifle to massacre a group of teenagers, killing three and injuring a fourth near Niagara, Wisconsin. The teens were gathered along a river to go swimming when the gunman emerged from surrounding woods and began shooting.⁵⁵



- **Apartment employees shot by a disgruntled tenant in Virginia**

On March 19, 2008, in Virginia Beach, Virginia, a man shot five people, killing two, with an AK-47 assault rifle and .9mm handgun before killing himself. The man was about to be evicted from his apartment and targeted the apartment complex's employees in his attack.⁵⁶

- **Churchgoers gunned down in Colorado**

On December 9, 2007, a man armed with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others, including two teenage sisters, in Colorado Springs. He was injured by a security guard and then shot himself.⁵⁷

- **Mall shoppers massacred in Nebraska, Washington, and New York**

On December 5, 2007, nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in an Omaha, Nebraska mall.⁵⁸

On November 20, 2005, a 20-year-old male opened fire in a Tacoma, Washington mall, wounding six. The shooter took four hostages, all of whom were released unharmed.⁵⁹

On February 13, 2005, a gunman fired more than 60 shots from an AK-47 assault rifle in the Hudson Valley Shopping Mall in Ulster, New York, wounding two and causing tens of thousands of dollars of damage before being apprehended. A few hours earlier, the shooter had purchased armor-piercing ammunition from a nearby Wal-Mart.⁶⁰

- **Birthday party celebrants spray-fired in Louisiana**

On September 15, 2007, at least 28 bullets were fired from an AK-47 at an outdoor birthday party for five-year-old twins in the courtyard of a housing complex in Kenner, Louisiana. A 19-year-old was killed and three children were wounded, ages 7, 8 and 13.⁶¹

- **Pregnant woman and child shot while sleeping in Illinois**

On June 25, 2006, in Calumet City, Illinois, a 22-year old pregnant woman and her three-year old son were shot and killed while they were sleeping when an unknown gunman fired 30 rounds from an AK-47 into their home at 1:15 a.m.⁶²



- **Family massacred in a home robbery in Indiana**

On June 2, 2006, in Indianapolis, Indiana, seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.⁶³

- **Two young girls shot in their homes in Illinois**

On March 11, 2006, 10-year-old Siretha White was killed by a shot to her head as she was celebrating her birthday in her living room. A spray of bullets from an assault weapon peppered the house from a nearby fight.⁶⁴

Just over a week earlier, on March 3, 2006, a stray bullet from an assault rifle struck a 14-year-old honor student as she was looking out the window of her home, killing her instantly.⁶⁵

- **College students murdered while camping in Florida**

On January 7, 2006, two college students camping in the Ocala National Forest in Florida were randomly targeted by a man who shot and killed them with a stolen AK-47.⁶⁶

- **Domestic violence leads to mass shootout on courthouse steps in Texas and triple-slaying in Ohio**

On February 25, 2005, in Tyler, Texas, a gunman who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse, killing his ex-wife and a bystander. The shooter's 23-year-old son and three law enforcement officers were wounded in a shootout.⁶⁷

Just a day earlier in Akron, Ohio, a man shot and killed his girlfriend and her seven-year-old son using an AR-15 assault weapon, then fired more than 100 rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault weapon. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.⁶⁸

- **Hunters gunned down in the woods in Wisconsin**

On November 21, 2004, near Hayward, Wisconsin, a 36-year-old man opened fire with an SKS semiautomatic rifle, killing six members of a hunting party and wounding two after being asked to leave another hunter's property.⁶⁹



Crime Use Disproportionate

The firepower of assault weapons makes them especially desired by violent criminals and especially lethal in their hands. Prior to the Act, although assault weapons constituted less than 1% of the guns in circulation,⁷⁰ they were a far higher percentage of the guns used in crime. ATF's analysis of guns traced to crime showed that assault weapons "are preferred by criminals over law abiding citizens eight to one.... Access to them shifts the balance of power to the lawless."⁷¹

In arguing against assault weapon bans, the NRA and its supporters have cited Justice Department studies based on surveys of state and federal prisoners to claim that assault weapons are used in only 2% of crimes nationally. These studies, however, actually confirm the disproportionate use of assault weapons in crime. More than 80% of these prisoners used *no firearm* in the commission of their crime. Within the category of inmates who used guns to commit crimes, semiautomatic assault weapons were actually used in 6.8% of state prosecutions and 9.3% of federal prosecutions.⁷² Both percentages are much higher than the estimated 1% of guns in circulation that are assault weapons.⁷³

In addition, research by Dr. Garen Wintemute of the University of California at Davis has found that gun buyers with criminal histories were more likely to buy assault weapons than buyers without such histories. Wintemute further found that the more serious the offender's crimes, the more likely he is to buy assault weapons. Assault weapon buyers also are more likely to be arrested after their purchases than other gun purchasers.⁷⁴

Fabrique Nationale FN/FAL, FN/LAR, and FNC Assault Rifle**Terrorists Armed**

As our nation wages a war on terrorism – at home and abroad – one salient fact is especially unassailable: terrorists and assault weapons go together. The assault weapon's capacity to mass-murder within a matter of seconds makes it an ideal weapon for domestic and foreign terrorists alike. The oft-seen file footage of Osama Bin Laden,



aiming his AK-47 at an unknown target, is now a familiar reminder of the incontrovertible connection between terrorism and assault weapons.

After America's bombing of terrorist camps in Afghanistan after 9/11, the *Chicago Tribune* reported that, among the mounds of rubble found at a training facility in Kabul for a radical Pakistan-based Islamic terrorist organization, was a manual entitled "How Can I Train Myself for Jihad" containing an entire section on "Firearms Training."⁷⁵ Tellingly, the manual singles out the United States for its easy availability of firearms and advises al-Qaeda members living in the United States to "obtain an assault weapon legally, preferably AK-47 or variations." Further, the manual sets forth guidelines for how would-be terrorists should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

As the following examples indicate, terrorists have sought and obtained assault weapons in the U.S.

- **Conspirators armed to attack within the United States**

On May 7, 2007, five New Jersey men were indicted for conspiring to attack the United States Army base at Fort Dix, NJ. Over several months, the conspirators managed to stockpile numerous assault weapons, along with shotguns and various other small arms, and used these weapons in tactical training for their attack. The men had also arranged to purchase five fully automatic AK-47s and several M-16s at the time of their arrest.⁷⁶

On March 16, 2005, in New York, Artur Solomonyan, an Armenian, and Christian Dewet Spies, of South Africa, were indicted for smuggling a small arsenal of assault weapons into the U.S. from Russia and Eastern Europe. The two men, who had entered the U.S. illegally, stored these weapons in storage lockers in New York, Los Angeles, and Fort Lauderdale. When approached by an FBI informant with ties to terrorist organizations, Solomonyan and Spies offered to sell him AK-47s and machine guns, along with RPG-launchers, mines, and other military-grade ordnance.⁷⁷

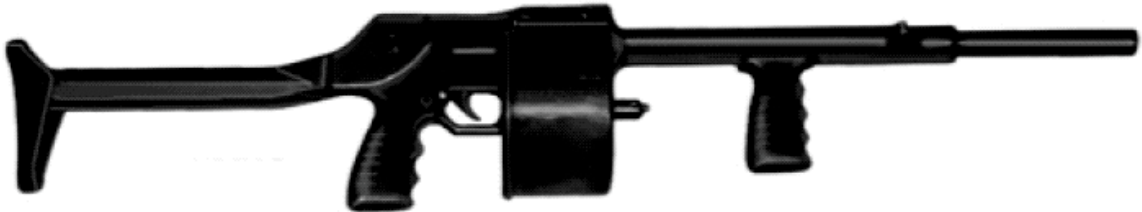
In late April 2004, Michael J. Breit of Rockford, Illinois, was arrested after firing his AK-47 in his apartment. Federal agents recovered seven guns, more than 1,300 rounds of ammunition, pipe bomb making components and other explosives, a list of government officials and political and public figures with the word "marked" written next to them, and a written plan for 15 heavily armed men to kill 1,500 people at a Democratic presidential event. Breit's library included *The Turner Diaries*, the anti-government cult novel that inspired Timothy McVeigh, and *Guns, Freedom and Terrorism*, the book authored by NRA CEO Wayne LaPierre, investigators said.⁷⁸

In September 2001, Ben Benu, Vincente Pierre and his wife were arrested in Virginia for illegally buying assault weapons and other guns. The arrests were part of the post-September 11th sweep of terrorism suspects. They were alleged to be part of a militant group called Muslims of America (also linked to a terrorist group called Al



Fuqra). They bought guns including an SKS assault rifle, a 9mm pistol, and AK-47 ammunition.⁷⁹

Street Sweeper/Striker 12 Assault Shotgun



- **Arming terrorists and criminals abroad with assault weapons bought here**

On May 6, 2008, Phoenix gun dealer George Iknadosian and two associates were arrested after receiving a shipment of weapons intended for sale to a Mexican drug cartel. An undercover investigation by ATF indicated that Iknadosian sold at least 650 AK-47 assault rifles for trafficking to Mexico but that the actual number might have been closer to 1,000. Such weapons feed the on-going conflict between drug traffickers and Mexican authorities, a conflict which resulted in more than 2,000 law enforcement deaths in an 18-month period.⁸⁰

Over several months in 2006, Adan Rodriguez purchased more than 100 assault rifles, along with many other weapons, from Dallas area gun shops on behalf of Mexican drug traffickers who paid him in cash and marijuana. Rodriguez's arrest was one of several key arrests in a five-year crack-down on weapons smuggling to Mexico. AK-47's, AR-15's, and other high-powered assault weapons, obtained either at gun shows or through straw purchasers, fuel an on-going war between major Mexican cartels and police and military officials. Over 4,000 people were killed in this drug-related violence during an 18-month period in 2007-2008.⁸¹

On September 10, 2001, Ali Boumelhem was convicted on a variety of weapons charges plus conspiracy to ship weapons to the terrorist organization Hezbollah in Lebanon. He and his brother had purchased an arsenal of shotguns, hundreds of rounds of ammunition, flash suppressors and assault weapons components at Michigan gun shows. Had it not been for a police informant, these purchases would have eluded any scrutiny.⁸²

Stephen Jorgensen purchased hundreds of firearms, including AK-47 clones called MAK-90s, with plans to ship them overseas from Tampa, Florida. Jorgensen bought 800 MAK-90s, loading them on to small planes. US customs officials say the guns were headed to the FARK guerilla movement in Colombia, a group on the U.S. terrorism watch list. Jorgensen was caught because he illegally exported the guns.⁸³



In June 2001 federal agents arrested Keith Glaude when he tried to purchase 60 AK-47 assault rifles and 10 machine guns in Florida. He told authorities that he intended to ship the guns to an Islamic extremist group in his native Trinidad. Previously, that group had acquired over 100 assault weapons in Florida that it used in a 1990 attempt to overthrow the government of Trinidad and Tobago.⁸⁴

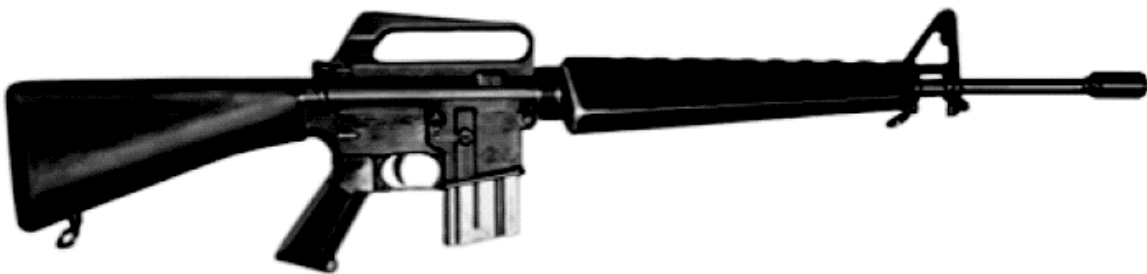
- **Using assault weapons in terrorist attacks**

Over a period of weeks in 2002, John Mohammed, a convicted felon, and his juvenile cohort, Lee Boyd Malvo, terrorized the entire metropolitan Washington, D.C. area by engaging in a series of sniper attacks on randomly-selected victims. In all, they shot 16 victims with a Bushmaster XM-15 E2S .223 caliber semiautomatic assault rifle that one of the snipers allegedly shoplifted from a Tacoma, Washington gun store. Each of the victims was randomly gunned down while going about simple activities of daily living, like closing up a store after work,⁸⁵ filling a car with gas at a service station,⁸⁶ mowing a lawn,⁸⁷ or loading one's car in a mall parking lot.⁸⁸ Both shooters have been convicted of their offenses.

On March 1, 1994, terrorist Rashid Baz opened fire on a van of Hasidic students crossing the Brooklyn Bridge, killing one student and wounding another. Baz used a Cobray M-11 assault pistol in the crime. He assembled it from a mail-order kit.⁸⁹

On January 25, 1993, Pakistani national Mir Aimal Kasi killed 2 CIA employees and wounded 3 others outside the entrance to CIA headquarters in Langley, Virginia. Kasi used a Chinese-made semiautomatic AK-47 assault rifle equipped with a 30-round magazine purchased from a Northern Virginia gun store.⁹⁰ After fleeing the country, he was arrested in Pakistan in June 1997 and convicted by a Virginia jury in November of that year.⁹¹

Colt AR-15 Assault Rifle



Assault Weapons Have No Sporting or Self-Defense Purpose

Prior to passage of the federal assault weapons ban, the importation of certain types of assault weapons from overseas was banned during the Reagan and George H.W. Bush Administrations. These import bans were ordered by ATF under the 1968 Gun Control Act, which bars the importation of guns that are not “particularly suitable for or readily adaptable to sporting purposes.”⁹²

Under the Reagan Administration, ATF blocked the importation of certain models of shotguns that were not suitable for sporting purposes. In 1989, during the George H.W. Bush Administration, ATF expanded this list to permanently ban the importation of 43 types of semiautomatic assault rifles that were also determined not to have a sporting purpose. Later, in 1998, President Clinton banned the importation of 58 additional foreign-made “copycat” assault weapons in order to close a loophole in the existing import ban.⁹³

Assault weapons, as opposed to hunting rifles, are commonly equipped with some or all of the following combat features that have no sporting value:

- **A high-capacity ammunition magazine** enabling the shooter to continuously fire dozens of rounds without reloading. Standard hunting rifles are usually equipped with no more than three or four-shot magazines.
- **A folding or telescoping stock**, which sacrifices accuracy for concealability and for mobility in close combat.
- **A pistol grip or thumbhole stock**, which facilitates firing from the hip, allowing the shooter to spray-fire the weapon. A pistol grip also helps the shooter stabilize the firearm during rapid fire.
- **A barrel shroud**, which allows the shooter to grasp the barrel area to stabilize the weapon, without incurring serious burns, during rapid fire.
- **A flash suppressor**, which allows the shooter to remain concealed when shooting at night, an advantage in combat but unnecessary for hunting or sporting purposes. In addition, the flash suppressor is useful for providing stability during rapid fire, helping the shooter maintain control of the firearm.
- **A threaded barrel designed to accommodate a flash suppressor or silencer.** A silencer is useful to assassins but clearly has no purpose for sportsmen. Silencers are also illegal.
- **A barrel mount designed to accommodate a bayonet**, which obviously serves no sporting purpose.



Combat Hardware Commonly Found on Assault Weapons

Assault weapons generally include features that are useful for offensive assaults on people, but have no sporting or self-defense function. Some of these are shown below.



- **A grenade launcher or flare launcher**, neither of which could have any sporting or self-defense purpose.
- **A shortened barrel** designed to reduce the length of an assault rifle to make it more concealable. This reduces accuracy and range.⁹⁴

In addition to utilizing military features useful in combat, but which have no legitimate civilian purpose, assault weapons are exceedingly dangerous if used in self defense, because the bullets many of the weapons fire are designed to penetrate humans and will penetrate structures, and therefore pose a heightened risk of hitting innocent bystanders. As Jim Pasco, executive director of the Fraternal Order of Police has explained: **“An AK-47 fires a military round. In a conventional home with dry-wall walls, I wouldn’t be surprised if it went through six of them.”**⁹⁵ A bullet fired in self-defense that penetrated a home’s walls, could strike bystanders in neighboring rooms, apartments, or houses.

High capacity magazines containing more than 10 rounds, which were also banned as part of the Federal Assault Weapons Act, are also not useful for self-defense, as former Baltimore County Police Department Colonel Leonard J. Supenski has testified:

The typical self-defense scenario in a home does not require more ammunition than is available in a standard 6-shot revolver or 6-10 round semiautomatic pistol. In fact, because of potential harm to others in the household, passersby, and bystanders, too much firepower is a hazard. Indeed, in most self-defense scenarios, the tendency is for defenders to keep firing until all bullets have been expended.⁹⁶

Assault weapons were designed for military use. They have no legitimate use as self-defense weapons.



Sportsman Jim Zumbo Speaks Out “Assault” Rifles are “Terrorist” Rifles

A long-standing writer for *Outdoor Life* magazine, Jim Zumbo, created a huge controversy within the gun lobby when he admitted in an online blog that assault rifles have no place as hunting weapons. Zumbo wrote:

“I must be living in a vacuum. The guides on our hunt tell me that the use of AR and AK rifles have a rapidly growing following among hunters, especially prairie dog hunters. I had no clue. Only once in my life have I ever seen anyone using one of these firearms.

I call them ‘assault’ rifles, which may upset some people. Excuse me, maybe I’m a traditionalist, but I see no place for these weapons among our hunting fraternity. I’ll go so far as to call them ‘terrorist’ rifles. They tell me that some companies are producing assault rifles that are ‘tackdrivers.’

Sorry, folks, in my humble opinion, these things have no place in hunting. We don’t need to be lumped into the group of people who terrorize the world with them, which is an obvious concern. I’ve always been comfortable with the statement that hunters don’t use assault rifles. We’ve always been proud of our “sporting firearms.

This really has me concerned. As hunters, we don’t need the image of walking around the woods carrying one of these weapons. To most of the public, an assault rifle is a terrifying thing. Let’s divorce ourselves from them. I say game departments should ban them from the prairies and woods.”⁹⁷

Israel Military Industries Action Arms Galil Assault Rifle



17

Def. Exhibit 20
Page 000950

“Dangerous and Unusual Weapons” Are Not Protected by the Second Amendment

The Second Amendment does not provide constitutional protection for military-style assault weapons. In *District of Columbia v. Heller*,⁹⁸ the Supreme Court recently ruled that the Second Amendment protects an individual right to keep and bear arms for self-defense in the home.⁹⁹ However, the Court also went out of its way to indicate that the right is limited in a number of ways. One limitation, the Court held, is that not all “arms” are protected.

We also recognize another important limitation on the right to keep and carry arms. [*U.S. v.*] *Miller* said, as we have explained, that the sorts of weapons protected were those “**in common use at the time.**” We think that limitation is fairly supported by the historical tradition of prohibiting carrying of “**dangerous and unusual weapons.**”¹⁰⁰

Assault weapons are certainly “dangerous and unusual weapons” according to any reasonable analysis of that phrase. They are military-style offensive weapons designed to slaughter human beings.¹⁰¹ This differentiates them from all hunting rifles and shotguns, as well as common handguns, which are often used in crime but have also been used in self-defense.

Moreover, assault weapons have never been “in common use” at **any** time. As semi-automatic versions of machine guns developed for use during the World Wars of the 20th Century, they are a relatively recent invention. In addition to being banned by the federal government for 10 years, they have been banned in several states.¹⁰² Plus, ATF has twice concluded, after thorough analyses in 1989 and 1998, that assault weapons have no “sporting purpose.”¹⁰³ This conclusion has blocked them from being imported into the United States.

Another factor suggesting that the Second Amendment does not protect assault weapons is that state supreme courts have consistently upheld the constitutionality of assault weapon bans as reasonable regulations designed to protect public safety under broadly-worded right-to-bear-arms provisions in state constitutions.¹⁰⁴ The *Heller* Court relied on these state constitutional provisions, many of which were adopted in the 18th and 19th centuries, to support its interpretation that the Second Amendment protects an individual right to bear arms. Courts construing the Second Amendment, post-*Heller*, can be expected to apply a similar standard of review, and uphold a federal assault weapons ban.



A Strong Federal Assault Weapons Ban Should Be Enacted

In response to mass shootings and mounting public pressure, Congress finally passed a nationwide ban on assault weapons in 1994. In hearings on the bills, the Senate Judiciary Committee explained the need to:

address the carnage wrought by deadly military-style assault weapons on innocent citizens and the law enforcement officers who seek to protect us all. Recent events illustrate again, and with chilling vividness, the tragedy that results from the wide and easy availability of guns with fire power that overwhelm our police, of weapons that have no place in hunting or sport and whose only real function is to kill human beings at a ferocious pace.¹⁰⁵

Those factors are just as prevalent today. Indeed, after 9/11, the need may be greater.

Unfortunately, the 1994 statute's scope and effectiveness were limited in several important ways. First, the law included a 10-year sunset provision allowing it to lapse when it was not re-enacted in 2004. Second, the law contained a list of assault weapons banned by make and model, but this list was not comprehensive. Third, the statute also banned guns by reference to their military features, but required guns to have **two** of these features (in addition to being semiautomatic firearms capable of accepting a detachable, high-capacity ammunition magazine) in order to be banned. The requirement of two military features created a loophole that allowed gun makers to continue manufacturing and selling stripped-down assault weapons.¹⁰⁶

The result was a piece of legislation that was valuable at keeping many of the most dangerous assault weapons out of criminals' hands, but one that also had an opening for gun manufacturers to evade the ban. Some manufacturers evaded the ban by developing guns, like the Bushmaster XM-15, Intratec's AB ("After Ban")-10, and Olympic Arms PCR ("Politically Correct Rifle"), with only minor changes in features to banned weapons.

Effect of the 1994 Ban

According to a study published by the Brady Center in 2004 entitled *On Target: The Impact of the 1994 Federal Assault Weapons Act*, the federal assault weapons ban reduced the incidence of assault weapons use in crime. In the five-year period (1990-1994) before enactment of the ban, assault weapons named in the Act constituted 4.82% of the crime gun traces ATF conducted nationwide. In the post-ban period after 1995,¹⁰⁷ these assault weapons made up only 1.61% of the guns ATF has traced to crime – a drop of 66% from the pre-ban rate.¹⁰⁸ Moreover, ATF trace data showed a steady year-by-year decline in the percentage of assault weapons traced, suggesting that the longer the statute was in effect, the less available these guns became for



criminal misuse. Indeed, the absolute number of banned assault weapons traced also declined. An initial report issued by the Department of Justice supported these findings.¹⁰⁹ These findings were further supported in a later report by one of the same researchers.¹¹⁰

This analysis was based on crime gun trace data compiled by ATF of more than 1.4 million crime guns recovered across the United States between 1990 and 2001.¹¹¹ If the ban had not been enacted, and had the banned assault weapons continued to make up the same percentage of crime gun traces as before the Act's passage, it was estimated that approximately 60,000 more of the banned assault weapons would have been traced to crime in the 10 years the law was in effect. Former ATF officials at Crime Gun Solutions, LLC, including the former Special Agent in Charge of ATF's National Tracing Center, analyzed the data for the Brady Center.

On Target also looked at the problem of "copycat" assault weapons developed by the gun industry to enable the continued sale of high-firepower weapons. The study found that industry efforts to evade the federal ban through the sale of these "copycat" weapons was able to diminish, but not eliminate, the 1994 Act's beneficial effects. Even including copycats of the federally banned guns, there was still a 45% decline between the pre-ban period (1990-1994) and the post-ban period (1995 and after) in the percentage of ATF crime gun traces involving assault weapons and copycat models.

The lesson to be drawn from this study is that a new assault weapons ban should be passed to reduce criminal use of these dangerous weapons, but it should be stronger and more comprehensive than the original federal ban to reduce indirect evasion through the manufacture of "copycat" weapons. One model for a strong assault weapons ban is the law California enacted in 2000 that bans military-style weapons capable of accepting high-capacity ammunition magazines that have even a single combat feature.¹¹² Representative Carolyn McCarthy has introduced similar strong assault weapons legislation in the U.S. House of Representatives.¹¹³

Support by Law Enforcement, the Public, and Presidents

The law enforcement community has long supported strong assault weapons bans. Every major national law enforcement organization in the country supported the Federal Assault Weapons Act and urged its renewal, including the Law Enforcement Steering Committee, Fraternal Order of Police, National Sheriffs' Association, International Association of Chiefs of Police, Major City Chiefs Association, International Brotherhood of Police Officers, National Association of Police Organizations, Hispanic American Police Command Officers Association, National Black Police Association, National Organization of Black Law Enforcement Executives, Police Executive Research Forum, and Police Foundation.

In poll after poll, the American people, regardless of party affiliation, have consistently supported a federal ban on assault weapons. In an ABC/Washington Post poll conducted in August-September 1999, 77% of adults supported a nationwide ban



on the sale of assault weapons.¹¹⁴ That same percentage held firm through the end of 2003 when an NBC News/Wall Street Journal poll found that 78% of adults nationwide expressed support for renewing the federal ban.¹¹⁵ In September 2004, just after the assault weapons ban expired, a Harris poll found that a substantial majority of Americans, 71%, favored reinstatement of the ban.¹¹⁶ As more time has passed without a federal assault weapons ban in effect, support for a ban has grown. For example, a 2007 poll from Illinois found that 80% of voters favored banning semiautomatic assault weapons.¹¹⁷ Newspaper editorial boards have also continued their strong support for getting assault weapons off our nation's streets.¹¹⁸

Presidents across the political spectrum have supported an assault weapons ban. Former Presidents Ford, Carter, and Reagan wrote Congress in support of the 1994 ban to "urge you to listen to the American public and to the law enforcement community and support a ban on the further manufacture of these weapons."¹¹⁹ In 2004, Presidents Ford, Carter, and Clinton wrote to urge re-authorization of the ban.¹²⁰ President George W. Bush also stated that he supported the ban and would sign its reauthorization if it passed Congress.

- **Senator Obama Opposes Assault Weapons for Civilians, While Senator McCain Supports Them**

Of the Presidential candidates, Senator Barack Obama supports banning assault weapons. He also addressed the issue in his acceptance speech to the 2008 Democratic Convention, saying, "The reality of gun ownership may be different for hunters in rural Ohio than they are for those plagued by gang violence in Cleveland, but don't tell me we can't uphold the Second Amendment while keeping AK-47s out of the hands of criminals."

Senator John McCain has consistently opposed an assault weapon ban, saying it "represented an arbitrary restriction on the constitutional rights of law-abiding citizens."



Conclusion

Assault weapons are weapons of war that are sought after and used by street gangs, drug dealers, and terrorists, but are of no use to law-abiding persons who own guns for sporting purposes and self-defense. Law enforcement and an overwhelming majority of the American public realize that these guns have no place in civilian hands, and should be banned. For 10 years, America attempted to limit the mayhem caused by assault weapons and the high-capacity ammunition magazines that they utilize. Although the gun industry worked hard to evade the federal ban by marketing assault weapons stripped of enough features to get by, gun makers were not wholly effective at neutralizing the federal ban's effect. Even accounting for the industry's evasive efforts, the use of assault weapons in crime declined substantially. Unfortunately, President Bush and the 108th Congress allowed it to lapse.

We need to enact a new, stronger federal assault weapons ban to keep these dangerous guns off the streets – a law that will ban all military-style weapons and with no sunset provision.

The lives of our law enforcement officers and our citizens hang in the balance.

Beretta AR 70 Assault Rifle



APPENDIX: Examples of Assault Weapon Violence Since Federal Ban Expired

- **North Tulsa, Oklahoma. October 6, 2008.** A man accidentally shot his roommate with an SKS assault rifle. The victim and shooter were arguing with the victim's estranged wife and another man when the shooter fired warning shots, hitting his roommate inadvertently.¹
- **Madison, Illinois. October 6, 2008.** A 12-year-old boy died after getting caught in the middle of a gunfight. More than 40 shots were fired as a man with an assault rifle exchanged fire with gunmen in cars.²
- **Springfield, Missouri. October 4, 2008.** A 21-year-old shot two men with an AR-15 Assault Rifle during an argument at a nightclub.³
- **Kansas City, Missouri. October 2, 2008.** Two men, one armed with an assault rifle, shot at two undercover police officers. The officers returned fire, injuring the two assailants.⁴
- **Brownsville, Texas. September 30, 2008.** Two men armed with an AK-47 Assault Rifle and .38 revolver shot multiple rounds at a group of men gathered outside a home twice in one night. There was a long-standing argument between the shooters and one of the victims. Nobody was hurt in either incident.⁵
- **Battle Creek, Michigan. September 28, 2008.** A felon with an assault weapon shot two teenagers in retaliation for a shooting several weeks prior.⁶
- **Jackson, Mississippi. September 26, 2008.** Two men armed with an assault rifle shot repeatedly at a house, hitting a woman and a one year old boy inside.⁷
- **Lenoir, North Carolina. September 21, 2008.** A former police officer and army veteran, who was armed with an assault rifle, shot two sheriff's deputies, killing one of them.⁸
- **San Antonio, Texas. September 18, 2008.** A gunman with an AK-47 assault rifle fired more than 15 rounds at a home, hitting a woman sleeping inside twice.⁹

¹ *Man accidentally shot by roommate*, KJRH- TV 2, Tulsa, Oklahoma, Oct. 6, 2008.

² *12 Year Old Shot Dead In Madison, Illinois Overnight*, ASSOCIATED PRESS, Oct. 7, 2008.

³ *Dirk Vanderhart, Shooting prompted by conflict over woman, hat*, SPRINGFIELD NEWS-LEADER, Oct. 7, 2008.

⁴ *KCMO Officers Fired on with Assault Rifle*, WDAF-TV 4, Kansas City, Missouri, Oct. 2, 2008.

⁵ *Police: 10-year grudge prompts downtown shooting*, BROWNSVILLE HERALD, Oct. 3, 2008.

⁶ *Trace Christenson, B.C. man faces attempted murder charge*, BATTLE CREEK ENQUIRER, Oct. 2, 2008.

⁷ *2 men charged in shooting denied bond*, ASSOCIATED PRESS, Oct. 2, 2008.

⁸ *Dee Henry, Armed and dangerous*, HICKORY DAILY HERALD, Sept. 22, 2008.



- **Charlotte, North Carolina. September 15, 2008.** Two people were sitting in a car outside an apartment building when a man shot at them with an assault rifle. One person in the car was hit twice and the other individual was injured by shattered glass.¹⁰
- **Houston, Texas. September 9, 2008.** One person died and two were injured in an overnight shooting. The assailants were carrying several weapons, including an assault rifle.¹¹
- **San Antonio, Texas. September 8, 2008.** A man shot two police officers with an assault rifle when the police attempted to arrest him. A standoff between the suspect and police followed, ending hours later when the suspect shot and killed himself.¹²

Tulsa, Oklahoma. September 7, 2008. A gunman with an assault weapon opened fire on a car carrying five teenagers home from church. Four of the five passengers were hit: Donovan Crutcher died from his wounds, Adrion Crutcher sustained damage to his spinal cord, Jeremy Williams lost the sight in his left eye, and Jahmal Bryant was in the intensive care unit. Four days later, a suspect was arrested in connection with the shooting.¹³

- **Birmingham, Alabama. September 5, 2008.** A man shot and killed his landlord with an SKS assault rifle after the two argued over stolen property.¹⁴
- **Dayton, Ohio. August 26, 2008.** A 31-year-old man sustained severe leg injuries when he was shot multiple times with an assault rifle.¹⁵
- **Hope Mills, North Carolina. August 25, 2008.** An 18-year-old shot a man in the head with an assault rifle. The victim was leaving the shooter's house by car, along with a woman and baby, when the incident occurred.¹⁶
- **Miami, Florida. August 23, 2008.** An intoxicated customer was shot with an AK-47 assault rifle after being kicked out of a strip club. The shooter was then shot by another man, who was also carrying an assault rifle.¹⁷

⁹ *Shooter Opens Fire On Home, Sleeping Woman Hit Twice*, WOAI – TV 4 San Antonio, Sept. 18, 2008.

¹⁰ *Apartment Complex Evacuated After Double Shooting*, WSOC-TV 9, Sept. 16, 2008.

¹¹ *Suspects in Triple Shooting Had Assault Rifle, Multiple Weapons*, FOX 26 TV Houston, Sept. 10, 2008.

¹² *SAPD Details Monday Shooting Investigation*, KSAT12-TV, San Antonio, Texas, Sept. 10, 2008.

¹³ *Arrest made in deadly drive-by*, TULSA WORLD, Sept. 12, 2008.

¹⁴ *Landlord Killed After Argument Over Stolen Copper*, NBC13-TV, Birmingham, Alabama, Sept. 8, 2008.

¹⁵ *Man Targeted By Shooter With Assault Rifle*, WHIO-TV, Dayton, Ohio, Aug. 27, 2008.

¹⁶ *Three charged in Hope Mills shooting*, THE FAYETTEVILLE OBSERVER, Aug. 28, 2008.

¹⁷ *2 Dead in Shootout At Strip Club*, NBC6-TV, Miami, Florida, Aug. 23, 2008.



- **Youngsville, North Carolina. August 22, 2008.** A 12-year-old boy accidentally shot an 11-year-old neighbor with an AK-47 assault rifle.¹⁸
- **San Antonio, Texas. August 20, 2008.** A man was chased by a group of young men outside an apartment complex and was shot twice with an assault rifle.¹⁹
- **West Valley City, Utah. August 15, 2008.** Three men in an SUV shot at another car with an assault rifle and then led police on a high-speed chase. The police recovered drugs, alcohol, live casings, and an assault rifle from the car.²⁰

Newark, New Jersey. August 14, 2008. 15-year-old Bukhari Washington was killed after a bullet fired from a Chinese-made Norinco SKS assault rifle struck his bed while he slept. The gun was fired accidentally when its owner, 19-year-old Terrance Perry, was “fiddling” with it in the apartment below. Washington was a student at Christ the King Preparatory School and interned at a nursing home for people with HIV and AIDS.²¹

- **Birmingham, Alabama. August 11, 2008.** A 17-year-old girl was in a car that was sprayed by bullets from an AK-47. The girl exited the car and tried to run home when she was shot twice, once in the chest and again in her left hand, severing it. She died moments later from her injuries.²²
- **New Orleans, Louisiana. August 10, 2008.** One man was injured and another man died after being shot with an AK-47 assault rifle.²³
- **New Orleans, Louisiana. August 8, 2008.** A gunman carrying an assault rifle shot two people.²⁴
- **Niagara, Wisconsin. July 31, 2008.** A man with an assault rifle massacred a group of teenagers, killing three and injuring a fourth. The group was gathered along a river to go swimming when the gunman emerged from surrounding woods and began shooting.²⁵

¹⁸ *Sheriff says boy, 11, shot with AK-47*, THE NEWS & OBSERVER, Aug. 24, 2008.

¹⁹ *Man Chased Down and Shot to Death*, WOAI-TV, San Antonio, Texas, Aug. 21, 2008.

²⁰ *Shooting triggers high-speed chase; 3 arrested*, THE SALT LAKE TRIBUNE, Aug. 15, 2008.

²¹ Jonathan Schuppe, *Senseless Shot, Random Death: Respected teen is slain in bed, to Newark's grief*, THE STAR-LEDGER, Aug. 15, 2008.

²² Dan Barry, *Gunshot, then silence: And the sorrow spreads*, NEW YORK TIMES, Aug. 17, 2008.

²³ Nicole Dungca & Ramon Antonio Vargas, *Two die Sunday in separate slayings*, THE TIMES-PICAYUNE, Aug. 11, 2008.

²⁴ Leslie Williams, *Mob scene follows double shooting*, THE TIMES-PICAYUNE, Aug. 9, 2008.

²⁵ *Niagara, Wisconsin shooting suspect caught*, THE CHICAGO TRIBUNE, Aug. 1, 2008.



- **Pittsburgh, Pennsylvania. July 31, 2008.** Two men with an assault rifle shot and killed two cousins as they talked outside a home.²⁶
- **Orlando, Florida. July 30, 2008.** A man with an assault rifle shot and killed two teenagers and another man over stolen property.²⁷
- **Dallas, Texas. July 29, 2008.** A Dallas Morning News deliveryman was shot multiple times with an assault rifle while delivering papers early in the morning. His 14-year-old son was with him, but was not injured.²⁸
- **Kansas City, Missouri. July 28, 2008.** Three men broke into a home and held up the occupants at 1:30 in the morning. The men were armed with an assault rifle with a bayonet attached.²⁹
- **Detroit, Michigan. July 27, 2008.** Three people died, including a 17-year-old girl, after being shot with an assault rifle while leaving a bar.³⁰
- **Salt Lake City, Utah. July 26, 2008.** A 19-year-old airman shot a 22-year-old with an assault rifle after the two argued at a nightclub. The airman shot another person several months earlier.³¹
- **Chattanooga, Tennessee. July 24, 2008.** Two men armed with an SKS assault rifle shot a 28-year-old man in the head and back.³²

Oakland, California. July 23, 2008. 23-year-old Amanda Hunter was killed when she was accidentally shot in the head with an assault rifle. Hunter was attempting to remove the weapon from her home when it fell to the ground and fired. Her boyfriend, the owner of the weapon and a convicted felon, was arrested for weapons related charges including being a felon in possession of a firearm.³³

- **New Orleans, Louisiana. July 15, 2008.** A man died after being shot repeatedly with an AK-47 while asleep in his trailer.³⁴

²⁶ Jill King Greenwood, *72 killings set bloody pace in city, county*, PITTSBURGH TRIBUNE-REVIEW, Aug. 2, 2008.

²⁷ Vincent Bradshaw & Willoughby Mariano, *Flurry of bullets near Orlando playground kills three*, THE ORLANDO SENTINEL, July 31, 2008.

²⁸ Scott Goldstein, *Father, son survive shooting during News delivery*, THE DALLAS MORNING NEWS, Aug. 7, 2008.

²⁹ Mike Rice, *Home invasion robbery reported in Gladstone*, KANSAS CITY STAR, July 28, 2008.

³⁰ Candice Williams, *Girl, 17, two men fatally shot outside Detroit bar*, THE DETROIT NEWS, July 27, 2008.

³¹ *Airman's arrest for shooting not his first*, STANDARD-EXAMINER, July 29, 2008.

³² Jacqueline Koch, *Police investigate assault-rifle shooting*, CHATTANOOGA TIMES FREE PRESS, July 25, 2008.

³³ *Oakland woman killed when assault rifle accidentally fires*, July 24, 2008, available at: http://www.insidebayarea.com/ci_9977524 (last visited Sept. 26, 2008).

³⁴ Ramon Antonio Vargas, *AK-47 fire kills sleeping former rapper*, THE TIMES PICAYUNE, July 16, 2008.



- **Daytona Beach, Florida. July 13, 2008.** A distraught man fired 30 rounds into the side of an occupied building with an AK-47 assault rifle.³⁵
- **Eatonville, Florida. July 8, 2008.** A father and son were shot during a robbery with an AK-47 assault rifle.³⁶
- **Youngstown, Ohio. July 8, 2008.** A man beat up and attempted to shoot his girlfriend with an assault weapon.³⁷
- **Edwardsville, Illinois. July 7, 2008.** Two 19-year-olds repeatedly shot at a sheriff's deputy with an assault weapon as he pursued them during a car chase.³⁸
- **Van Buren, Michigan. July 6, 2008.** Two 19-year-olds with an assault rifle shot and killed a man they had argued with earlier.³⁹
- **Beaumont, Texas. July 5, 2008.** One person was injured when a man shot an assault rifle into a crowd standing outside a nightclub.⁴⁰
- **Dallas, Texas. July 4, 2008.** A gunman shot at an apartment building with an AK-47 assault rifle, killing a 17-year-old girl inside. The gunman had been arguing with the girl's stepfather outside.⁴¹
- **Buena Vista, Michigan. July 3, 2008.** A gunman shot an AK-47 multiple times into a car carrying two teenage girls, hitting one in the leg.⁴²

³⁵ Julie Murphy, *Outlaws clubhouse shot up. Police: man fires 30 rounds, accuses members of rape*, DAYTONA BEACH NEWS JOURNAL, July 17, 2008.

³⁶ *Shooting may be linked to Orlando Incident*, WESH.COM, Orlando, FL, July 8, 2008, available at: <http://www.wesh.com/print/16817435/detail.html> (last visited Sept. 26, 2008).

³⁷ *Man charged with assault over domestic dispute*, VINDY.COM, July 9, 2008, available at: <http://www.vindy.com/news/2008/jul/09/man-charged-with-assault-over-domestic-dispute/> (last visited Sept. 26, 2008).

³⁸ Sandord J. Schmidt, *Two accused of shooting at deputy*, THE TELEGRAPH.COM, July 8, 2008, available at: http://www.thetelegraph.com/news/county_15966___article.html/madison_accused.html (last visited Sept. 26, 2008).

³⁹ Susan L. Oppat, *2 Van Buren teens charged in slaying*, THE ANN ARBOR NEWS, July 10, 2008.

⁴⁰ Heather Nolan, *Beaumont police seek help in investigating shooting at night club*, BEAUMONTENTERPRISE.COM, July 7, 2008, available at: http://www.beaumontenterprise.com/news/local/beatmont_police_seek_public_s_help_in_investigaton_07-07-2008_10_43_01.html (last visited Sept. 26, 2008).

⁴¹ Seema Mathur, *Teen hit by stray bullet at dallas apartment*, CBS11TV.COM, July 6, 2008, available at: <http://cbs11tv.com/local/dallas.teen.shot.2.764557.html> (last visited Sept. 26, 2008).

⁴² *Buena Vista gunman fires AK-47, strikes girl*, WNEM.COM, July 8, 2009, available at: <http://www.wnem.com/print/16821122/detail.html> (last visited Sept. 26, 2008).



Warsaw, North Carolina. July 2, 2008. 18-year-old high school football star Derrick Barden was killed after being shot with an AK-47. Three teenagers were charged with his death, which occurred as a group of people played with an AK-47 outside of an apartment complex.⁴³

- **Adairsville, Georgia. June 29, 2008.** A man carrying an AK-47 assault rifle shot a woman twice in the chest during a robbery attempt.⁴⁴
- **Overtown, Florida. June 28, 2008.** A 15-year-old died after he was shot with an assault weapon during a drive-by shooting.⁴⁵
- **Mobile, Alabama. June 27, 2008.** A 6-year-old boy was shot three times and a man twice when a group of men fired AK-47 and SKS assault weapons at the two cars they were riding in.⁴⁶
- **Powhatan, Virginia. June 25, 2008.** A 17-year-old with an assault weapon shot and killed an 18 year old after the two argued.⁴⁷
- **Powhatan County, Virginia. June 24, 2008.** An 18-year-old high school student was shot and killed with an assault rifle following an altercation at a gas station. A juvenile was also wounded in the shooting.⁴⁸
- **Anderson, South Carolina. June 22, 2008.** A man fired more than 30 rounds from an assault rifle at a group of people, killing a 16-year-old who was hit three times and wounding a man.⁴⁹
- **Opa Locka, Florida. June 22, 2008.** A man shot an AK-47 assault rifle at a business, injuring three people inside.⁵⁰

⁴³ Steve Herring, *Three teens charged in player's shooting*, GOLDSBORO NEWS-ARGUS, July 9, 2008.

⁴⁴ Hayden Jennings, *Suspect arrested in Adairsville shooting*, ROMENEWSWIRE.COM, June 30, 2008, available at: <http://www.romenewswire.com/index.php/2008/06/30/suspect-arrested-in-adairsville-shooting/> (last visited Sept. 26, 2008).

⁴⁵ David Ovalle, *2 deaths raise 2008 homicides to 136*, THE MIAMI HERALD, July 2, 2008.

⁴⁶ Ron Colquitt, *Four suspects denied bail*, THE PRESS-REGISTER, June 28, 2008.

⁴⁷ *Authorities: Powhatan teen's killer was 17-year-old*, INRICH.COM, June 30, 2008, available at: <http://www.inrich.com/cva/ric/news.PrintView.-content-articles-RTD-2008-06-30-0195.html> (last visited Sept. 26, 2008).

⁴⁸ Linda Dunham & Reed Williams, *Suspects in fatal shooting surrender: Sheriff: Trio wanted in Powhatan teen's death face murder charges; suspected weapon found*, RICHMOND TIMES-DISPATCH, June 29, 2008.

⁴⁹ Craig Stanley, *Westside student, shooting victim, is remembered*, INDEPENDENTMAIL.COM, June 27, 2008, available at: <http://www.independentmail.com/news/2008/jun/27/westside-student-shooting-victim-remembered/> (last visited Sept. 26, 2008).

⁵⁰ *3 shot in Opa Locka*, NBC6.NET, June 22, 2008, available at: <http://www.independentmail.com/news/2008/jun/27/westside-student-shooting-victim-remembered/> (last visited Sept. 26, 2008).



- **Little Rock, Mississippi. June 21, 2008.** A man died after being shot in the head with an AK-47 assault rifle. The gunman and victim had argued over a dice game.⁵¹
- **Elyria, Ohio. June 14, 2008.** A woman died after being shot with an AK-47 assault rifle during a robbery.⁵²
- **Miami, Florida. June 13, 2008.** A man shot six people at a graduation party with an assault rifle. One of the victims died.⁵³
- **Lavaca County, Texas. June 11, 2008.** A 14-year-old boy died after being accidentally shot by his grandfather with an AK-47 assault rifle.⁵⁴
- **Longview, Texas. June 10, 2008.** A man opened fire with an AK-47 assault rifle after arguing with his girlfriend, injuring three people, including a 7-year-old girl.⁵⁵
- **Wilkes, North Carolina. June 6, 2008.** A 17-year-old was seriously injured after being shot with an AK-47 assault rifle. Several teenagers were playing with the gun when it was fired.⁵⁶
- **Shreveport, Louisiana. June 1, 2008.** A 25-year-old man was seriously injured after being shot multiple times with an assault rifle while in his car.⁵⁷
- **Tucson, Arizona. June 1, 2008.** A man shot at several houses with an assault rifle, then lead police in pursuit across Tucson for more than an hour. During the chase, the gunman shot at police multiple times, fatally shooting one officer and injuring two Sheriff's deputies.⁵⁸

⁵¹ Tim Doherty, *Foxworth man held in slaying* THE HATTIESBURG AMERICAN, June 24, 2008.

⁵² Matt Suman, *AK-47 used in deadly Gas USA robbery*, THEMORNINGJOURNAL.COM, June 25, 2008 available at:

http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept_id=46371&rfi=6 (last visited Sept. 26, 2008).

⁵³ *Teen shot and killed while leaving graduation party*, WSVN.COM, Miami Gardens, FL, available at: <http://www.wsvn.com/news/articles/local/MI88522/> (last visited Sept. 26, 2008).

⁵⁴ *Teen shot, killed in hunting accident*, KSAT.COM, June 12, 2008, available at: http://www.zwire.com/site/news.cfm?newsid=19801129&BRD=1699&PAG=461&dept_id=46371&rfi=6 (last visited Sept. 26, 2008).

⁵⁵ *3 wounded in Longview gunfire*, THE DALLS MORNING NEWS, June 10, 2008.

⁵⁶ *Wilkes teens play with rifle, one shot*, GOBLUERIDGE.NET, June 9, 2008, available at: http://www.goblueridge.net/index.php?option=com_content&task=view&id=3821&Itemid=1 (last visited Sept. 26, 2008).

⁵⁷ Katrina Webber, *Violent weekend in Shreveport leaves 3 with gunshot wounds*, KSLA NEWS 12, June 2, 2008, available at: <http://www.ksla.com/Global/story.asp?S=8410023&nav=0RY5RQCK> (last visited Sept. 26, 2008).

⁵⁸ Brady McCombs & Alexis Huicochea, *Officer on life support after crosstown pursuit*, ARIZONA DAILY STAR, June 2, 2008.



- **New Orleans, Louisiana. May 26, 2008.** Two people were injured when a gunman carrying an AK-47 assault rifle fired more than twenty rounds at them.⁵⁹
- **Jackson, Mississippi. May 26, 2008.** Five people were shot, one fatally, at a Memorial Day barbecue. A man left the party after an argument and returned with an assault rifle and fired indiscriminately into the crowd.⁶⁰
- **Shreveport, Louisiana. May 19, 2008.** A 15-year-old shot a 14-year-old with an assault weapon.⁶¹
- **Brooklyn, Connecticut. May 14, 2008.** A 16-year-old boy with Asperger syndrome shot an assault rifle near a group of people playing basketball in a park who he had argued with earlier.⁶²
- **Miami, Florida. May 14, 2008.** A man was shot multiple times after his car was sprayed with bullets from an assault weapon.⁶³
- **San Jacinto, California. May 12, 2008.** A SWAT team was called in after a man and woman armed with assault rifles shot at security guards and then Sheriff's deputies. The two were killed in the resulting shootout.⁶⁴
- **Raceland, Louisiana. May 12, 2008.** Three men attacked three other men in their car, killing all three. Each victim was shot multiple times with an AK-47 assault rifle.⁶⁵

Calabash, North Carolina. May 8, 2008. James Murdock, 25, was killed in a drive-by shooting. Murdock was sitting in a car when a dark SUV pulled up and fired at him with an assault rifle. He died at the scene. Two men were charged with the murder.⁶⁶

- **San Jacinto, California. May 8, 2008.** A 26-year-old man shot at Sheriff's deputies with an assault rifle. The man was killed when the policemen returned fire.⁶⁷

⁵⁹ *Pair gunned down by AK-47*, WDSU.COM, May 27, 2008, available at:

<http://www.wdsu.com/news/16401761/detail.html> (last visited Sept. 26, 2008).

⁶⁰ Kathleen Baydala, *Man arrested in fatal holiday party shooting*, THE CLARION LEDGER, May 28, 2008.

⁶¹ *Arrest made in shooting of 14 year old boy*, KSLA NEWS 12, May 20, 2008, available at:

http://www.ksla.com/Global/story.asp?S=8350809&nav=menu50_11_16_4 (last visited Sept. 26, 2008).

⁶² Dustin Racioppi & Don Bond, *Conn. teen with autism held in assault rifle shooting*, THE METRO WEST DAILY NEWS, May 15, 2008, available at:

<http://www.metrowestdailynews.com/archive/x2118739287/Conn-teen-with-autism-held-in-assault-rifle-shooting> (last visited Sept. 26, 2008).

⁶³ *Man shot with high-powered assault weapon*, LOCAL 10 NEWS, May 14, 2008, available at:

<http://www.local10.com/print/16261614/detail.html> (last visited Sept. 29, 2008).

⁶⁴ Gillian Flaccus, *Deputies kill 2 in gun battle on Calif. Reservation*, ASSOCIATED PRESS ARCHIVE, May 14, 2008.

⁶⁵ Raymond Legendre, *Grand jury to consider Raceland triple-slaying case*, THE COURIER, August 11, 2008.

⁶⁶ Shannan Bowen, *Two charged in Calabash murder*, STAR-NEWS, May 20, 2008.



- **Ripon, Wisconsin. May 6, 2008.** A 19-year-old accidentally shot and killed an 18-year-old friend with an assault rifle while the two were at a friend's house.⁶⁸

Stafford, Virginia. May 5, 2008. Aaron Poseidon Jackson shot his children, 1-year-old Aaron and 2-year-old Nicole, with a .38 caliber handgun, then shot their mother, Latasha Thomas, with an AK-47. When police arrived at the home, Jackson, wearing a bulletproof vest and surrounded by guns and ammunition, was found dead from a self inflicted gunshot wound.⁶⁹

- **Burien, Washington. May 4, 2008.** A man died when he was shot in the head with an assault rifle after arguing with the shooter in a bar. The shooter left after the initial incident but returned with the gun.⁷⁰
- **Chicago, Illinois. May 4, 2008.** A college student died after being shot with an assault rifle when she was caught in crossfire from a gang while in a car.⁷¹
- **Cordova, New Mexico. May 4, 2008.** A man killed his 17-month-old son by shooting him in the chest with an assault rifle.⁷²
- **Philadelphia, Pennsylvania. May 3, 2008.** A police officer was shot and killed by an assault rifle as he was responding to a bank robbery. Three men robbed the bank and were fleeing when the officer stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking the officer numerous times. One suspect was eventually shot and killed by police and the other two were arrested and charged with murder.⁷³
- **San Antonio, Texas. May 2, 2008.** Two teens armed with an assault rifle shot at a man after he tried to stop a fight between groups of teenagers.⁷⁴

⁶⁷ Jose Arballo Jr., Steve Fetbrandt & Michelle DeArmond, *Soboba member killed in gun battle with deputies*, THE PRESS-ENTERPRISE, May 8, 2008.

⁶⁸ *Teen charged with negligent homicide in Ripon shooting posts bond*, NBC 15 NEWS, Feb. 29, 2008, available at: <http://www.nbc15.com/home/headlines/15839617.html> last visited (Sept. 29, 2008).

⁶⁹ Keith Epps & Ellen Biltz, *Gunman heavily armed*, FREDERICKSBURG.COM, May 7, 2008, available at: <http://fredericksburg.com/News/FLS/2008/052008/05072008/377460> (last visited Sept. 26, 2008).

⁷⁰ Casey McNerthney, *Man shot after Burien bar fight dies*, SEATTLE POST-INTELLIGENCER, May 5, 2008.

⁷¹ Annie Sweeney & Stefano Esposito, *We had so many plans*, THE CHICAGO SUN-TIMES, May 6, 2008.

⁷² Isaac Paul Vasquez, *Police allege father killed son*, KFOXTV.COM, May 4, 2008, available at: <http://www.kfoxtv.com/news/16157794/detail.html> (last visited Sept. 26, 2008).

⁷³ Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; See Sergeant Stephen Liczbinski, www.odmp.org/officer/19359-sergeant-stephen-liczbinski (last visited Sept. 30, 2008).

⁷⁴ *Man shot at after breaking up fight*, KSAT TV 12, May 2, 2008, available at: <http://www.ksat.com/news/16136482/detail.html> (last visited Sept. 26, 2008).



- **Compton, California. April 29, 2008.** A 19-year-old with an assault rifle exchanged fire with Sheriff's deputies. No one was injured in the incident.⁷⁵
- **Chicago, Illinois. April 21, 2008.** The owner of a plumbing company was shot in the stomach by an employee using an AK-47 and died as a result. The employee also shot at three police officers later in the evening.⁷⁶
- **York, Pennsylvania. April 11, 2008.** A man died after he was shot multiple times with an assault rifle. The victim and shooter had argued earlier.⁷⁷
- **Miami, Florida. April 5, 2008.** A 16-year-old boy died and his mother was injured when they were shot with an assault rifle outside of their home by people they had previously argued with.⁷⁸
- **Sharonville, Ohio. April 3, 2008.** A 14-year-old girl was shot in the leg when a man fired an assault weapon randomly into the street. The bullet went through a car door and hit the victim.⁷⁹
- **Miami, Florida. April 3, 2008.** A 20-year-old with over thirteen firearms, including four AK-47s, and more than 5,000 rounds of ammunition, was arrested after threatening over the internet that he was going to carry-out a Virginia Tech style massacre.⁸⁰
- **Tarpon Springs, Florida. March 30, 2008.** A man fired several rounds from an assault weapon toward another man who was exiting his car.⁸¹
- **Donaldsonville, Louisiana. March 22, 2008.** A five-year-old boy and a man were injured after being shot with an assault rifle on the street.⁸²
- **Virginia Beach, Virginia. March 19, 2008.** A man shot five people, killing two, with an AK-47 assault rifle and .9 mm handgun before killing himself. The man was

⁷⁵ *Suspect arrested in connection to Compton shootout*, CBS2.COM, May 1, 2008, available at: <http://cbs2.com/local/Compton.Shooting.Arrest.2.713125.html> (last visited Sept. 26, 2008).

⁷⁶ Lisa Donovan et. al., *SWAT will go on patrol*, CHICAGO SUN TIMES, Apr. 22, 2008.

⁷⁷ Kristin Thorne, *York man killed in shooting involving assault rifle*, ABC27 NEWS, Apr. 11, 2008, available at: <http://cfc.whtm.com/printstory.cfm?id=510600> (last visited Sept. 29, 2008).

⁷⁸ *Teen killed, mother injured in shooting*, NBC6.NET, Apr. 6, 2008, available at: <http://www.nbc6.net/news/15806302/detail.html> (last visited Sept. 26, 2008).

⁷⁹ *Teenage girl accidentally shot in Sharonville*, WCPO 9 NEWS, Apr. 3, 2008, available at: http://www.wcpo.com/news/local/story.aspx?content_id=c473d379-e54d-4b46-a24d-397f12369149 (last visited on Sept. 29, 2008).

⁸⁰ *Police: Man threatened to re-enact Virginia Tech-style killings*, ASSOCIATED PRESS, Apr. 4, 2008.

⁸¹ *Tarpon Springs man arrested in assault rifle attack*, TBO.COM, Mar. 31, 2008, available at: <http://suncastpasco.tbo.com/content/2008/mar/31/tarpon-springs-man-arrested-assault-rifle-attack/> (last visited Sept. 26, 2008).

⁸² Samuel Irvin, *Sheriff promises to boost patrols*, THE ADVOCATE, Mar. 27, 2008 available at: <http://www.2theadvocate.com/news/17040851.html> (last visited Sept. 26, 2008).



about to be evicted from his apartment and targeted the apartment complex's employees in his attack.⁸³

- **Chattanooga, Tennessee. March 15, 2008.** A man fired more than 20 rounds from an assault rifle at another man outside of an apartment building. The victim was not hit.⁸⁴
- **Baton Rouge, Louisiana. March 7, 2008.** A 16-year-old male shot his father in the arm with an AK-47 and was placed in juvenile detention on one count of attempted murder.⁸⁵
- **Kansas City, Missouri. March 5, 6, 7, 2008.** One man was killed and three injured during a drive-by shooting of a tire store. The shooters used two .223-caliber assault rifles, one of which had two large drum magazines and could fire 100 bullets without reloading. Police pursued the shooters, who were eventually apprehended, and were shot at with the same assault rifles. The following day, three retaliatory shootings occurred; the day after, one retaliatory shooting occurred in which a woman was shot seven times in the chest and torso.⁸⁶
- **Roanoke, Virginia. February 29, 2008.** A car chase ended when the driver pulled over and began shooting at police with an SKS assault rifle. The police shot and seriously wounded the driver. None of the police were seriously injured.⁸⁷

Gainesville, Georgia. February 19, 2008. 52-year old Mary Bailey was killed after being shot with an AK-47. Bailey was sleeping on the sofa when her 19-year old son, Derrick Bailey, cleaned his assault weapon and it fired. Derrick claims he did not know the weapon was loaded.⁸⁸

- **Marrero, Louisiana. February 16, 2008.** An 18-year-old was killed and a 16-year-old wounded after being shot with an AK-47 multiple times. The shooter fired more than 20 rounds at the two victims.⁸⁹
- **Pulaski, Kentucky. February 9, 2008.** A man fired more than 50 rounds from his assault rifle into a mobile home and garage after arguing with the owner. The homeowner received only minor injuries in the incident.⁹⁰

⁸³ *Gunman in mass shooting identified*, WVEC 13 NEWS, Mar. 20, 2008, *available at*: http://www.wvec.com/news/vabeach/stories/wvec_local_031908_vb_shooting.79dfc43.html (last visited Sept. 29, 2008).

⁸⁴ Amy Katcher, *East Lake shootout caught on tape*, WDEF NEWS 12, Mar. 26, 2008, *available at*: http://wdef.com/news/east_lake_shootout_caught_on_tape/03/2008 (last visited Sept. 26, 2008).

⁸⁵ *Police and fire briefs*, BATON ROUGE ADVOCATE, Mar. 8, 2008.

⁸⁶ Christine Vendel, *Heavy firepower in KC: Officers outgunned by suspects*, KANSAS CITY STAR, Mar. 8, 2007.

⁸⁷ Jessica Marcy, *Shots end U.S. 220 chase in Roanoke County*, WWW.ROANOKE.COM, Mar. 1, 2008, *available at*: <http://www.roanoke.com/news/roanoke/wb/152736> (last visited Sept. 26, 2008).

⁸⁸ *Gainesville teen: 'I shot my mother'*, WSBTV.COM, Feb. 19, 2008, *available at*: <http://www.wsbtv.com/news/15345707/detail.html> (last visited Sept. 26, 2008).

⁸⁹ *Harvey teen booked with murder*, THE TIMES PICAYUNE, Feb. 19, 2008.



- **Phoenix, Arizona. February 9, 2008.** A 17-year-old died and a 23-year-old was injured after being shot with an assault rifle during an attack by four men.⁹¹
- **Indianapolis, Indiana. February 8, 2008.** An 8-year-old girl died after being shot in the head when someone sprayed her house with bullets from an assault weapon.⁹²
- **Macon, Georgia. February 4, 2008.** A man fired over 70 rounds from an assault rifle into the front of a house, killing the woman at the door. The man was looking for the woman's son but shot her after learning he was not at home.⁹³
- **Cleveland, Tennessee. February 2, 2008.** A 20-year-old man died after being shot several times with an assault rifle as he exited a car. The gunman shot at the other people in the car and at a nearby house as well.⁹⁴
- **Pittsburgh, Pennsylvania. January 28, 2008.** A 12-year-old girl was killed and her mother badly injured after they were shot with an AK-47 assault rifle. The two were visiting a family member when an assailant sprayed the house with dozens of bullets.⁹⁵
- **Camp Hill, Alabama. January 22, 2008.** A 19-year-old shot a 17-year-old in the face with an assault rifle after the two argued over the stolen weapon.⁹⁶
- **Miami, Florida. January 20, 2008.** Three cousins were injured when dozens of rounds were fired from an assault rifle into their car. One of the cousins was left brain-dead.⁹⁷
- **Carmichael, California. January 16, 2008.** A 24-year-old man was shot with an assault rifle in a drive-by shooting and died.⁹⁸

⁹⁰ *Eubank man jailed following hail of bullets fired into residence*, WKYT.COM, Feb. 9, 2008, available at: <http://www.wkyt.com/home/headlines/15476381.html> (last visited Sept. 26, 2008).

⁹¹ David Biscobing, *Teen gunned down in Phoenix with rifle*, EAST VALLEY TRIBUNE, Feb. 9, 2008.

⁹² *Community mourns eight-year-old's shooting death*, WTHR 13 NEWS, Feb. 26, 2008, available at: <http://www.wthr.com/Global/story.asp?S=7853369> (last visited Sept. 29, 2008); *Man charged in 8-year-old's shooting death*, WTHR 13 NEWS, Feb. 27, 2008, available at: <http://www.wthr.com/Global/story.asp?s=7865668> (last visited Sept. 29, 2008).

⁹³ Ashley Tusan Joyner, *Woman died after man sprays home with bullets*, THE MACON TELEGRAPH, Feb. 6, 2008.

⁹⁴ Ryan Harris, *Bradley murder victim identified*, CHATTANOOGA TIMES FREE PRESS, Feb. 5, 2008.

⁹⁵ Michael Hasch, *Girl, 12, killed as 40 shots blast into North Side home*, THE PITTSBURGH TRIBUNE-REVIEW, Jan. 29, 2008.

⁹⁶ *Teen shot in face by assault rifle*, WTVM.COM, Jan. 22, 2008, available at: http://www.wtvm.com/Global/story.asp?S=7757100&nav=menu91_2 (last visited Sept. 26, 2008).

⁹⁷ David Ovalle, *Little Haiti: Gun violence tears family*, THE MIAMI HERALD, January 24, 2008.

⁹⁸ *Two Carmichael killings may be connected*, KCRA.COM, Jan. 16, 2008, available at: <http://www.kcra.com/news/15067608/detail.html> (last visited Sept. 26, 2008).



- **Louisville, Kentucky. January 14, 2008.** A man carrying an assault rifle fired several rounds at a police officer during a traffic stop. The officer was not injured.⁹⁹
- **North Miami Beach, Florida. January 8, 2008.** An off-duty Miami police detective was killed by a man who shot him with an AK-47 assault rifle as he sat in his car.¹⁰⁰
- **Merrillville, Indiana. December 31, 2007.** A 25-year-old man shot a 20-year-old man with an assault rifle. The shooter asked the victim and another man to leave his apartment after they argued, then followed them outside and shot the victim multiple times.¹⁰¹

Little Rock, Arkansas. December 29, 2007. 6-year-old Kamya Weathersby was shot at least 7 times by gunmen outside her home as she was lying in bed. Police believe at least one assault rifle was used to fire 50 or more rounds at her home. The following day, Kamya died when her family made the decision to take her off life support.¹⁰²

- **Ozark, Alabama. December 29, 2007.** An 18-year-old man repeatedly shot a 22-year-old man using a SKS assault rifle after the two argued. The 22-year-old died from his injuries.¹⁰³
- **Southington, Connecticut. December 24, 2007.** One man shot another in the head with an assault rifle, killing him, after the two argued.¹⁰⁴
- **Arvada & Colorado Springs, Colorado. December 9, 2007.** One man with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others in Colorado Springs. He died after being shot by a security guard and then shooting himself.¹⁰⁵

⁹⁹ 4th arrest made in SWAT case, WLKY.com, Jan. 14, 2008, available at:

<http://www.wlky.com/news/15048297/detail.html> (last visited Sept. 26, 2008).

¹⁰⁰ David Quinones, *Dispute boils over mourning of detective*, MIAMI HERALD, Jan. 19, 2008; See Detective James Walker, www.odmp.org, available at: <http://www.odmp.org/officer/19128-detective-james-walker> (last visited Sept. 30, 2008).

¹⁰¹ *M'ville man charged in shooting*, THE TIMES ONLINE.COM, Jan. 4, 2008, available at: http://www.thetimesonline.com/articles/2008/01/04/news/lake_county/doc88e35a05299f4540862573c600061f09.txt

(last visited Sept. 26, 2008).

¹⁰² *Girl, 6, dies after being shot 7 times – Ark. police search for suspects, motive*, MEMPHIS COMMERCIAL APPEAL, Jan. 1, 2008.

¹⁰³ *Ozark shooting suspect surrenders*, PRESS-REGISTER, Jan. 1, 2008.

¹⁰⁴ Chris Velardi, *\$2million bond for Southington murder suspect*, WTNH.COM, Jan. 2, 2008, available at: <http://www.wtnh.com/global/story.asp?s=7566985> (last visited on Sept. 29, 2008).

¹⁰⁵ Erin Emery, *Report details church shooting, the document chronicles the days leading up to the Dec. 9 deaths of four young people*, DENVER POST, Mar. 13, 2008.



- **Omaha, Nebraska. December 5, 2007.** Nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in a Nebraska mall.¹⁰⁶
- **Arden, South Carolina. December 4, 2007.** One man was injured when he was shot at close range in the leg and foot with an AK-47 assault rifle.¹⁰⁷
- **Memphis, Tennessee. November 13, 2007.** One man was killed and another injured after an unidentified man opened fire on a grocery store parking lot with an AK-47 assault rifle.¹⁰⁸
- **Vallejo, California. November 4, 2007.** One man died after being shot several times with an assault rifle while arguing with two other men. Witnesses of the shooting pursued the shooters by car and were also shot at, although none were injured.¹⁰⁹
- **Crandon, Wisconsin. October 7, 2007.** An off-duty Sheriff's deputy killed six and wounded a seventh person when he burst into a pizza party and started shooting with an assault weapon. The shooter later killed himself as the police closed in.¹¹⁰
- **West Palm Beach, Florida. September 18, 2007.** Two men were killed and another injured when they were attacked in their car by two men carrying a handgun and an assault rifle. The suspects shot at the police as they escaped.¹¹¹
- **New Orleans, Louisiana. September 15, 2007.** At least 28 bullets were fired from an AK-47 at an outdoor birthday party for 5-year-old twins in the courtyard of a public housing complex. A 19-year-old was killed and three children were wounded, ages 7, 8 and 13.¹¹²
- **Miami, Florida. September 13, 2007.** Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The driver got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home where they were granted permission to search by a female resident. The suspect grabbed a high-powered, military-grade rifle and fired at the police officers through a window, killing one officer, then exited the house and shot

¹⁰⁶ *The American Way*, REGISTER-GUARD, Dec. 17, 2007.

¹⁰⁷ Clarke Morrison, *Arden man gets 12 years for assault rifle shooting*, THE CITIZEN-TIMES, Aug. 8, 2008.

¹⁰⁸ Chris Conley & Jody Callahan, *Drive-by shooting kills 1—police search for two gunmen in B-52 Market incident*, MEMPHIS COMMERCIAL APPEAL, Nov. 13, 2007.

¹⁰⁹ Henry K. Lee, *Two suspects sought in Vallejo homicide*, SFGATE.COM, Nov. 10, 2007, available at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/11/10/BAUJT9HSA.DTL> (last visited Sept. 26, 2008).

¹¹⁰ Todd Richmond, *Crandon mass murder-suicide: Questions linger in killing of seven, officials tight-lipped despite suspect's death*, ST. PAUL PIONEER PRESS, Dec. 4, 2007.

¹¹¹ *2 killed in West Palm shootings, suspects escape on foot after one fires at police officer pursuing them*, SOUTH FLORIDA SUN-SENTINEL, Sept. 19, 2007.

¹¹² Mary Sparacello, *Housing Authority reining in parties, Kenner shooting leads to regulations*, THE TIMES PICAYUNE, Oct. 11, 2007.



three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.¹¹³

- **Aiken, South Carolina. September 12, 2007.** A 20-year-old man died after being shot multiple times with an assault rifle by a 19-year-old when they were having an argument.¹¹⁴
- **Rome, Georgia. August 26, 2007.** One man was killed and a woman seriously injured inside their home. The shooter was found with an AK-47, from which several clips of ammunition had been emptied, and a 12-gauge shotgun when police arrived at the scene.¹¹⁵
- **Treme, Louisiana. August 13, 2007.** Two men were killed and another was seriously wounded as a shooter sprayed the crowd with an AK-47 assault rifle at a recreational league basketball game.¹¹⁶
- **Dallas, Texas. August 12, 2007.** One person was killed and three others wounded in a shooting outside a poetry/coffee shop. The gunman, who used an assault rifle, fled the scene.¹¹⁷

Hialeah, Florida. August 5, 2007. Eric Lopez, 38, was fatally shot in his home, and his wife, Olga, was shot in the leg. The incident began around noon when gunmen entered their home and began firing with a military-style semi-automatic weapon. Police arrested four people in connection with the shooting.¹¹⁸

- **Oakland, California. August 4, 2007.** A gunman with an assault rifle unleashed a barrage of bullets at a van parked on a North Oakland street, killing one man who lived nearby and wounding his brother and their friend. The gunman then fled.¹¹⁹
- **Orangeburg, South Carolina. July 19, 2007.** A man brandishing an assault rifle shot a woman once in the leg. The man was charged with assault and battery with intent to kill.¹²⁰

¹¹³ David Ovalle et al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

¹¹⁴ Michelle Guffey, *Police seek murder suspects*, THE AUGUSTA CHRONICLE, Sept. 19, 2007.

¹¹⁵ *Man goes on shooting rampage, kills one, severely injures another*, ROMENEWSWIFE.COM, available at: <http://www.romenewswire.com/index.php/2007/08/26/police-on-scene-of-possible-murder-in-west-rome/> (last visited Sept. 29, 2008).

¹¹⁶ Richard A. Webster, *Soaring murder rate in New Orleans undermines recovery strides*, NEW ORLEANS CITY BUSINESS, Aug. 20, 2007.

¹¹⁷ Marissa Alanis, *Peacekeeper is killed outside club, police say: Dallas 3 others injured as gunman fires assault rifle into crowd*, DALLAS MORNING NEWS, Aug. 13, 2007.

¹¹⁸ Laura Figueroa, *Hialeah: 4 charged in 'crime of passion'*, MIAMI HERALD, Aug. 7, 2007.

¹¹⁹ *Two more slain in Oakland weekend violence*, THE OAKLAND TRIBUNE, Aug. 5, 2007.

¹²⁰ Richard Walker, *Woman recovering after being shot with AK-47*, THE TIMES AND DEMOCRAT, July 20, 2007.



- **North Augusta, South Carolina. July 15, 2007.** Twenty-one bullets were shot from an assault rifle into a home, hitting a 14-year-old boy sleeping inside. The bullets reportedly came from a car outside, tore through a foosball table, couch, and the wall to a back bedroom, where they pierced furniture, blasted a TV to the floor, and hit the boy.¹²¹
- **Floyd County, Indiana. June 18, 2007.** Two officers responded to a domestic disturbance call between a mother and her son. The officers were speaking with the mother on the driveway when the 15-year-old son ambushed both officers from an upstairs window and shot at them with a high powered assault rifle. One officer was killed and the other was seriously wounded.¹²²
- **Biloxi, Mississippi. June 5, 2007.** A gunman with an AK-47 ambushed police officers in a shootout, killing one, then shooting himself. The gunman lured police by firing shots in the neighborhood and waiting. After shooting one officer, the gunman unloaded an additional round into the patrol car. The gunman had a cache of backup guns and ammunition waiting inside his home.¹²³
- **Dallas, Texas. March 23, 2007.** A Dallas police officer was killed when he was struck in the neck and chest by an assault weapon as he approached a suspect's car.¹²⁴
- **Metairie, Louisiana. February 27, 2007.** Two AK-47s were among several guns fired into a Metairie apartment that resulted in four men being shot, one fatally and another critically.¹²⁵
- **Philadelphia, Pennsylvania. February 13, 2007.** A gunman used an assault weapon to kill 3 and wound another before killing himself.¹²⁶
- **Palm Beach County, Florida. January 1, 2007.** An 8-month-old baby boy was shot in his car seat after his mom parked in front of a drug house and rivals opened fire with assault rifles.¹²⁷
- **New Bedford, Massachusetts. December 12, 2006.** Three people were killed and two police officers were injured when a gunman opened fire at the Foxy Lady strip

¹²¹ Meredith Anderson, *North Augusta 14-year-old shot*, WRDW 12 NEWS, July 16, 2007, available at: <http://www.wrdw.com/home/headlines/8526357.html> (last visited on Sept. 29, 2008).

¹²² See Officer Frank Charles Denzinger, odmp.org, available at: <http://www.odmp.org/officer/18926-officer-frank-charles-denzinger> (last visited Sept. 30, 2008).

¹²³ Ryan LaFontaine, *Gunman had a large arsenal, Police say Asher used AK-47*, SUN HERALD, June 9, 2007.

¹²⁴ Tanya Eiserer et al., *Dallas officer dies after shootout*, THE DALLAS MORNING NEWS, Mar. 24, 2007.

¹²⁵ Michelle Hunter, *Cops say victim not innocent bystander*, THE TIMES PICAYUNE, Feb. 28, 2007.

¹²⁶ Larry King & Joseph A. Gambardello, *Investor rage, lethal trap*, PHILADELPHIA INQUIRER, Feb. 14, 2007.

¹²⁷ Rochelle E.B. Gilken, *County has most homicides since '89*, PALM BEACH POST, Jan. 6, 2008.



club; the shooter was fatally shot. One of the weapons used was described as an AR-15.¹²⁸

- **Westboro, Massachusetts. December 2, 2006.** Police seized a semiautomatic assault rifle from the bedroom closet of a young Shrewsbury man who posted threatening internet messages and who claimed to admire one of the Columbine High School killers.¹²⁹
- **Newport, Kentucky. November 19, 2006.** A fight at a nightclub led to four people being shot that evening. A 23-year-old was shot several times and left for dead on a bridge. An hour later, police found a 20-year-old man shot dead in his vehicle. Two other people were taken to the hospital with gunshot wounds and police recovered casings from an assault weapon.¹³⁰
- **Chicago, Illinois. October 30, 2006.** Members of the New Breed Street gang shot at Chicago police officers with an AK-47 from their car, injuring one officer. One gang member was killed and another critically wounded in the shoot-out.¹³¹
- **Palm Beach County, Florida. August 15, 2006.** A 50-year-old landscaper was shot at least 15 times as he walked toward a house to collect money for completed yard work. The shooters used assault weapons in the drive-by and police say the shooters mistook the victim for a gang member.¹³²
- **Chapel Hill, North Carolina, July 29, 2006.** A gunman with an assault rifle shot a man multiple times outside a nightclub, killing him. The shooter fled in a getaway car and later turned himself in.¹³³

¹²⁸ Jessica Heslam, *Strip club gunman at 'crossroads', killer bid farewell in cell phone messages*, BOSTON HERALD, Dec. 14, 2006.

¹²⁹ Kevin Keenan, *State police seize weapons*, WORCESTER TELEGRAM & GAZETTE, Dec. 2, 2006.

¹³⁰ *A fight at a Northern Kentucky nightclub lead to a wild shooting spree*, WLEX TV 18, Lexington, KY, Nov. 19, 2006, available at: <http://www.lex18.com/Global/story.asp?S=5704257&nav=EQ1p> (last visited Oct. 2, 2008).

¹³¹ Lisa Donovan et al., *Shoot-out 'looked like a movie': Cops kill 2 men they say were about to execute gang rivals*, CHICAGO SUN TIMES, Oct. 31, 2006.

¹³² Tim Collie, *Two members offer a look inside a South Florida gang*, SOUTH FLORIDA SUN-SENTINEL; July 22, 2007; Jerome Burdi, *'Innocent victim' killing unsolved, family awaits arrest in 2006 Boynton drive-by shooting*, SOUTH FLORIDA SUN-SENTINEL, Aug. 20, 2007.

¹³³ *Chapel Hill nightclub under review after fatal shooting*, WRAL.COM, July 31, 2006, available at: <http://www.wral.com/news/local/story/1056918/> (last visited Sept. 29, 2008).



St. John the Baptist Parish, Louisiana. June 27, 2006. 25-year-old Kelvin Thomas Jr. died after being shot in the abdomen with an assault rifle. Alonzo Bolden, 20, was arrested and booked with second-degree murder in connection with the shooting. Police believe the two men were engaged in an argument that was part of a long-running feud and ended with Bolden firing multiple shots at Thomas at close range. Thomas had three young children.¹³⁴

- **Calumet City, Illinois. June 25, 2006.** A 22-year-old pregnant woman and her 3-year-old son were shot and killed while they were sleeping when an unknown gunman fired 30 rounds from an AK-47 into their home at 1:15 a.m.¹³⁵
- **St. John the Baptist Parish, Louisiana. June 20, 2006.** A man who had killed a deputy police officer and injured another during a crime spree broke into the house of an 81-year-old man and held him hostage with an AK-47 until he eventually gave himself up and released the hostage.¹³⁶
- **Metairie, Louisiana. June 15, 2006.** Police attempted to serve a man with an emergency committal order but the man barricaded himself in his home and engaged in a 12-hour standoff with police. Seven hours into the standoff, the man shot and wounded two Sheriff's deputies with an assault rifle.¹³⁷
- **Reno, Nevada. June 12, 2006.** An owner of a gun shop, with a license to carry concealed weapons and access to a cache of guns, stabbed his wife to death and then shot the family court judge presiding over his divorce with a Bushmaster .223 high-powered assault rifle with sniper capabilities. The judge survived.¹³⁸
- **Howard County, Maryland. June 8, 2006.** County police officers were shot at by a man wielding an assault rifle whom they were attempting to serve a warrant on.¹³⁹
- **Norman, Oklahoma. June 7, 2006.** Two men opened fire on a Native American gathering of over 300 with an SKS assault rifle, killing one man and injuring another.¹⁴⁰

¹³⁴ Allen Powell II, *Garyville man held in fatal shooting, Deputies suspect long-running feud*, THE TIMES PICAYUNE, June 27, 2006.

¹³⁵ Tom Rybarczyk, *Calumet City reels after spray of bullets*, CHICAGO TRIBUNE, June 26, 2006.

¹³⁶ Allen Powell II, *Mourners salute slain St. John deputy*, NEW ORLEANS TIMES PICAYUNE, June 21, 2006.

¹³⁷ Michelle Hunter & Walt Philbin, *2 deputies wounded in Metairie standoff*, THE TIMES PICAYUNE, June 16, 2006.

¹³⁸ FOX NEWS, June 24, 2006.

¹³⁹ Tyrone Richardson, *Man found guilty of murder attempt*, BALTIMORE SUN, Oct. 29, 2006.

¹⁴⁰ Tom Blakely, *Pair arraigned in Sunday crowd shooting*, THE NORMAN TRANSCRIPT, June 7, 2006.



- **Miami, Florida. June 6, 2006.** Three men were killed and another injured when the van they were riding in was shot numerous times by assault weapons. About 50 rounds were fired into the van.¹⁴¹
- **Indianapolis, Indiana. June 2, 2006.** Seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.¹⁴²
- **San Diego, California. June 2, 2006.** A 17-year-old was wounded in an accidental workplace shooting when the teen's co-worker brought an AK-47 to work and was unaware that there was a live round inside the rifle's chamber.¹⁴³
- **New Milford Township, Pennsylvania. May 27, 2006.** Two brothers were camping with their wives and children when they were awakened by gunshots coming from a neighbor's property at 3:00 a.m. The brothers knew the neighbor so they went to his house to ask him to stop shooting. The neighbor, armed with a shotgun, told the two brothers to leave and then told his stepson to pick up an AR-15 rifle. The brothers were both shot in the stomach and wounded severely.¹⁴⁴
- **West Palm Beach, Florida. May 17, 2006.** Two men carrying AK-47 assault rifles ordered a man out of his car at gun-point, mugged him, and ripped off his pants.¹⁴⁵
- **Kingston, Tennessee. May 14, 2006.** A deputy sheriff and another individual were shot and killed by high-powered assault rifles. The deputy had 33 gunshot wounds.¹⁴⁶
- **Port Salerno, Florida. May 12, 2006.** A deputy sheriff was shot and wounded with an AK-47 assault rifle.¹⁴⁷

¹⁴¹ David Ovalle, *Ambush takes lives of 3 men*, MIAMI HERALD, June 6, 2006.

¹⁴² Ashley M. Heher, *Suspect in slaying of 7 family members surrenders / Indianapolis police say he had nowhere else to go*, HOUSTON CHRONICLE, June 4, 2006.

¹⁴³ Debbi Farr Baker, *Man accidentally shoots co-worker*, SAN DIEGO UNION-TRIBUNE, June 3, 2006.

¹⁴⁴ Nyier Abdou, *Somerville brothers still hospitalized after shooting: Pa. Man charged with assaulting rescue squad members during family camping trip*, THE STAR-LEDGER, May 31, 2006.

¹⁴⁵ *Digest*, SOUTH FLORIDA SUN-SENTINEL, May 17, 2006.

¹⁴⁶ Duncan Mansfield, *'Anti-government' man sought in ambush of Tennessee deputy*, CHARLESTON GAZETTE, May 13, 2006.

¹⁴⁷ Leon Fooksman, *Police fearful of violent crime trend: AK-47 shootings*, SOUTH FLORIDA SUN-SENTINEL, May 13, 2006.



Fort Worth, Texas. May 9, 2006. 16-year-old Derick Giles, an innocent bystander, was killed after being shot in the abdomen in the crossfire of a gang shooting outside a convenience store. Five minutes later, one man was shot in the leg and another in the foot during a second drive-by shooting. One hour and half later, a 50-year-old woman was shot in the shoulder by gunfire from a high-powered assault weapon as she stood in her kitchen.¹⁴⁸

- **Chantilly, Virginia. May 8, 2006.** A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station, killing a female detective immediately and wounding two other officers, one of whom died nine days later from his injuries.¹⁴⁹
- **Los Angeles, California. May 8, 2006.** Police arrested a man and found over 20 assault weapons in his home after the man fired multiple rounds in the air while driving through his neighborhood with a semiautomatic pistol. The man had his young son in the car with him.¹⁵⁰
- **Oskaloosa, Iowa. May 5, 2006.** A 17-year-old shot his 13-year-old friend in the chest with a military-style rifle and then shot himself.¹⁵¹
- **West Palm Beach, Florida. April 28, 2006.** Shots were fired into an apartment at 6:00 in the morning, hitting one man in the right leg and left knee. Seventeen shell casings from an AK-47 were found at the scene.¹⁵²

West Palm Beach, Florida. April 27, 2006. An AK-47 was used to shoot 24-year-old David Paulk and his 16-year-old sister. Mr. Paulk was critically injured and died four days later. The next day, the alleged gunman, Brandon Williams, was shot in the back with an assault rifle and taken to the hospital, where he was treated and left before police were able to find cause to arrest him.¹⁵³ However, he was arrested soon after.¹⁵⁴

¹⁴⁸ Deanna Boyd, *Teen killed in shooting at convenience store*, FORT WORTH STAR-TELEGRAM, May 9, 2006.

¹⁴⁹ Ian Urbina, *Fatal police station attack shocks tranquil community*, NEW YORK TIMES, May 10, 2006; *Officer Killed*, BOSTON GLOBE, May 18, 2006.

¹⁵⁰ *Man said to be on 'edge of Armageddon'*, LONG BEACH PRESS-TELEGRAM, May 9, 2006.

¹⁵¹ AP-News Agenda, Broadcast News, May 5, 2006.

¹⁵² *Police Blotter*, PALM BEACH POST, Apr. 29, 2006; Jerome Burdi, *Rash of shootings hits city in 2 days*, SOUTH FLORIDA SUN-SENTINEL, Apr. 29, 2006.

¹⁵³ Jerome Burdi, *Rash of shootings hits city in 2 days*, SOUTH FLORIDA SUN-SENTINEL, Apr. 29, 2006; Jerome Burdi, *New task force seeks man suspected in 2 shootings*, SOUTH FLORIDA SUN-SENTINEL, Apr. 30, 2006; *Police Blotter*, PALM BEACH POST, Apr. 30, 2006.

¹⁵⁴ Nirvi Shah, *West Palm slaying suspect jailed after Pensacola stop*, PALM BEACH POST, May 8, 2006.



- **Oakland, California. March 19, 2006.** A gunman with an AK-47 opened fire on an apartment building, filling it with bullets and killing a 49-year-old man.¹⁵⁵
- **Lake Worth, Florida. March 17, 2006.** A man angry over an argument with a woman, shot the woman and her roommate with an AK-47 and left the victims in the doorway of their home.¹⁵⁶
- **Chicago, Illinois. March 11, 2006.** A 10-year-old girl was killed by a shot to her head as she was celebrating her birthday in her living room. A spray of bullets from an assault weapon peppered the house from a nearby fight.¹⁵⁷
- **Chicago, Illinois. March 3, 2006.** A stray bullet from an assault rifle struck a 14-year-old honor student as she was looking out the window of her home, killing her instantly.¹⁵⁸
- **Las Vegas, Nevada. February 1, 2006.** A 22-year-old fired at least 50 rounds from an assault rifle, shooting two Las Vegas police officers and killing one, before being shot and killed by the surviving officer.¹⁵⁹
- **Brooklyn, New York. January 20, 2006.** A man was arrested after firing at least two rounds from an Uzi at two members of the New York Police Department.¹⁶⁰
- **Ocala, Florida. January 7, 2006.** Two college students who were camping in the Ocala National Forest were randomly targeted by a man who shot and killed them with a stolen AK-47.¹⁶¹
- **Indianapolis, Indiana. January 2, 2006.** A man dubbed the “Tec-9 Robber” was arrested after being wanted in connection with as many as 23 robberies in four months of fast food restaurants, convenience stores, and gas stations.¹⁶²
- **Caddo Parish, Louisiana. January 1, 2006.** A 19-year-old was arrested after he was found hiding in an alley with an assault weapon. He faces two counts of aggravated assault on a police officer and potential charges for riddling a house with bullets, injuring a man.¹⁶³

¹⁵⁵ Henry K. Lee, *Oakland: Two new slayings brings homicide total to 30*, SAN FRANCISCO CHRONICLE, Mar. 21, 2006.

¹⁵⁶ Kevin Deutsch, *Man arrested in assault-rifle shooting*, PALM BEACH POST, Mar. 17, 2006.

¹⁵⁷ Gov. Blagojevich, *victims' families, advocates urge lawmakers in Springfield to pass statewide assault weapons ban*, US STATE NEWS, Mar. 23, 2006.

¹⁵⁸ Charles Sheehan, *Neighborhood buries another child*, CHICAGO TRIBUNE, Mar. 19, 2006.

¹⁵⁹ Omar Sofradzija, *Processions to honor Prendes*, LAS VEGAS REVIEW-JOURNAL, Feb. 7, 2006.

¹⁶⁰ Veronika Belenkaya et al., *Uzi maniac shot by cops. Tied to 3 attacks on city's finest*, NEW YORK DAILY NEWS, Jan. 22, 2006.

¹⁶¹ Stephen Kudak & Sarah Lundy, *Cops: Suspect admits killing 2 campers in Ocala forest*, ORLANDO SENTINEL, Jan. 28, 2006.

¹⁶² CBS 8 WISH, Indianapolis, IN, Jan. 5, 2006.

¹⁶³ CBS 12 KSLA, Shreveport, LA, Jan. 2, 2006.



- **Harper Woods, Michigan. December 31, 2005.** A 40-year-old man was shot sixteen times with an assault weapon while standing on his front porch around 3:15 p.m. and died from his injuries. His wife and daughters were in the house at the time of the shooting. His murder, occurring on the last day of the year, was the first murder of 2005 in his town.¹⁶⁴
- **Miami, Florida. December 28, 2005.** A man dressed in all black used an assault weapon to fire multiple rounds into a house killing a 20-year-old man and injuring another man who was hit in the leg.¹⁶⁵
- **Fortville, Indiana. December 13, 2005.** A man slapped a female relative and fired a round from an assault weapon into his driveway then barricaded himself in his house and threatened to shoot anyone who came to the door. When the 8-hour standoff ended, police found more than 10 weapons in the home.¹⁶⁶
- **Tacoma, Washington. November 20, 2005.** A 20-year-old male opened fire in a Tacoma mall, wounding six. The shooter took four hostages, all of whom were released unharmed.¹⁶⁷

San Francisco, California. October 14, 2005. 22-year-old Derna Wysinger and his two-year-old son, Naemon, were killed when a man opened fire on their car with an assault weapon. The toddler's mother, Jazmanika Ridout, was shot in the foot and survived. The family was leaving the home of the toddler's great aunt, who had been babysitting Naemon so that Wysinger and Ridout could go on a date.¹⁶⁸

- **North Braddock, Pennsylvania. August 12, 2005.** A man was found dead, shot in the back and head. Police found assault rifle bullet casings near the body.¹⁶⁹
- **Denton County, Texas. August 9, 2005.** In a night-long standoff at his home, a man fired his SKS assault rifle at police to avoid being arrested. After shooting an officer in the leg and refusing to negotiate, police shot and killed the suspect.¹⁷⁰
- **New Orleans, Louisiana. August 8, 2005.** While driving, a man was shot and killed when an occupant of another car opened fire with an AK-47 assault rifle.¹⁷¹

¹⁶⁴ NBC 51 WDIV, Detroit, MI, Jan. 4, 2006.

¹⁶⁵ *Man killed in early morning shooting*, MIAMI HERALD, Dec. 28, 2005.

¹⁶⁶ *Eight-hour standoff ends peacefully*, THEINDYCHANNEL.COM, Dec. 13, 2005 available at: <http://www.theindychannel.com/news/5524484/detail.html> (last visited Sept. 29, 2008).

¹⁶⁷ *Suspect: 'follow screams', Man opens fire at mall in Tacoma; 6 wounded*, AKRON BEACON JOURNAL, Nov. 22, 2005.

¹⁶⁸ Christopher Heredia, *San Francisco police ask public for help in finding shooting suspect*, SAN FRANCISCO CHRONICLE, Oct. 16, 2005.

¹⁶⁹ Michael Hasch, *Shooting victim was teen suspect's uncle*, PITTSBURGH TRIBUNE REVIEW, Aug. 17, 2005.

¹⁷⁰ Domingo Ramirez Jr., *Trooper is shot; suspect is killed*, FORT WORTH STAR-TELEGRAM, Aug. 9, 2005.



- **West Palm Beach, Florida. June 25, 2005.** A man was killed and his 9-year-old daughter severely wounded when a man fired into their parked car with an assault weapon that police believe had been converted to fully automatic.¹⁷²
- **Cincinnati, Ohio. June 22, 2005.** Assailants armed with SKS-type assault rifles sprayed over forty armor-piercing bullets in twenty seconds, hitting two women leaving a grocery store.¹⁷³
- **Livingston County, Kentucky. June 2, 2005.** A deputy was shot when he responded to a domestic disturbance call placed by a couple's 18-year-old daughter. When the officer entered the home, a male fired at least 8 rounds from an assault rifle at him, hitting him four times and killing him. The officer was able to fire one round which killed the gunman.¹⁷⁴
- **Fresno, California. May 31, 2005.** A man fired at least eight shots from an assault rifle at two veteran police officers sitting in their patrol car outside the police K-9 facility. The police later found a partially loaded 30 round magazine in the assailant's car.¹⁷⁵
- **Kansas City, Missouri. May 29, 2005.** After being pulled over for a routine traffic stop, a recently fired elementary school janitor shot a Highway Patrol trooper nine times with a 9 mm assault rifle.¹⁷⁶
- **Tulsa, Oklahoma. May 29, 2005.** A gunman fired more than 20 shots from an assault rifle at an apartment building security guard, wounding the guard and hitting his car and surrounding buildings.¹⁷⁷
- **Camden, New Jersey. May 21, 2005.** A mother of three young children was killed by a stray bullet fired from an AK-47 during a shoot-out.¹⁷⁸
- **Jackson, Mississippi. May 18, 2005.** A man fired at least 17 shots from an SKS assault rifle and 9 mm pistol at police during a traffic stop.¹⁷⁹

¹⁷¹ Walt Philbin, *Three men killed in seven hours: All are shot to death on New Orleans streets*, NEW ORLEANS TIMES PICAYUNE, Aug. 9, 2005.

¹⁷² *Gun owners trade in arms, W. Palm Beach shootings spark city buyback*, SOUTH FLORIDA SUN-SENTINEL, July 10, 2005.

¹⁷³ *Two wounded in West End*, CINCINNATI POST, June 24, 2005.

¹⁷⁴ *Livingston County Kentucky Deputy Sheriff killed in gunfight*, LMPD.com, June 3, 2005, available at: <http://www.lmpd.com/index.php?name=News&file=article&sid=291&theme=AutoPrint> (last visited Sept. 30, 2008).

¹⁷⁵ *Two held in assault-rifle attack on two officers*, FRESNO BEE, June 1, 2005.

¹⁷⁶ *Accused man tells trooper he's sorry*, KANSAS CITY STAR, May 30, 2005.

¹⁷⁷ *Security guard at apartment is shot*, TULSA WORLD, May 29, 2005.

¹⁷⁸ *Two more men arraigned in fatal street shoot-out*, THE PHILADELPHIA INQUIRER, June 1, 2005.

¹⁷⁹ *Bond denied for man in shootout*, SUN HERALD, July 20, 2005.



Clayton County, Georgia. April 23, 2005. High school senior Larry Bishop Jr. was killed, and three other teens were wounded, when a gunman opened fire on a group of partygoers. 18-year old Artavious Rashad Abercrombie was arrested in connection with the crime.¹⁸⁰

- **Miami, Florida. April 10, 2005.** Three men were injured during a dispute in a strip club parking lot when a fourth man fired an AK-47 at them.¹⁸¹
- **Canton, Texas. April 8, 2005.** A man shot his son's football coach in the chest with an AK-47 after a dispute.¹⁸²
- **Houston, Texas. April 8, 2005.** Two robbers armed with AK-47s fired nearly twenty rounds at police during a shoot-out outside a pawnshop.¹⁸³
- **New Orleans, Louisiana. March 27, 2005.** A woman was shot in the chest outside her apartment with an AK-47 when she refused to give her purse to two armed robbers.¹⁸⁴

Pittsburgh, Pennsylvania. March 16, 2005. 16-year- old Keith Watts was killed, and two other students were injured, when a shooter fired at least eight rounds from an AK-47 into their parked vehicle.¹⁸⁵

- **Dallas, Texas. March 15, 2005.** Three people were killed after a man fired an assault rifle at them through the sunroof of his car.¹⁸⁶
- **Schertz, Texas. March 3, 2005.** After being pulled over, a man fired more than 30 bullets from a handgun and AK-47 at a state police officer.¹⁸⁷
- **Tyler, Texas. February 25, 2005.** A gunman with a history of domestic violence and a felony conviction, who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse when his ex-wife exited the building. His ex-wife was killed along with a bystander who tried to shoot the gunman. The shooter's 23-year-old son and three law enforcement officers were wounded during the shooting, including a 28-year-old deputy who was in grave condition. The

¹⁸⁰ *Teen faces murder charge*, THE ATLANTA JOURNAL-CONSTITUTION, May 28, 2005.

¹⁸¹ *Pair of early-morning shootings leave six hurt*, MIAMI HERALD, April 11, 2005.

¹⁸² *Gunman attacks coach at school*, FORT WORTH STAR-TELEGRAM, April 8, 2005.

¹⁸³ *Pawnshop heist ends in bloody shootout*, HOUSTON CHRONICLE, April 7, 2005.

¹⁸⁴ *Jeff woman shot in struggle with thief*, THE TIMES-PICAYUNE, March 29, 2005.

¹⁸⁵ *Schools need permission to shield kids from threats*, PITTSBURGH POST-GAZETTE, March 18, 2005.

¹⁸⁶ *Police say revenge went awry for slaying suspects*, DALLAS MORNING NEWS, March 18, 2005.

¹⁸⁷ *Man indicted in Schertz shootout*, SAN ANTONIO EXPRESS-NEWS, March 24, 2005.



gunman fled the scene but was pursued and shot by police when he exited his car and shot toward officers.¹⁸⁸

- **Los Angeles, California. February 24, 2005.** A disgruntled Los Angeles municipal employee opened fire with an AK-47 after being reprimanded at work, killing his supervisor and another employee.¹⁸⁹

Akron, Ohio. February 24, 2005. A man shot and killed his girlfriend and her seven year old son using an AR-15 assault rifle, then fired more than one-hundred rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault rifle. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.¹⁹⁰

- **Las Vegas, Nevada. February 15, 2005.** A suspected murderer fled from police as his girlfriend fired an assault rifle with a 100 round magazine at pursuing police vehicles. The man was wanted in connection with a drug related murder and for a nonfatal shooting. The man also had convictions for attempted manslaughter and armed robbery, and was suspected of shooting at a Louisiana police officer five months earlier.¹⁹¹
- **Ulster, New York. February 13, 2005.** A gunman fired more than 60 shots from an AK-47 assault rifle in the Hudson Valley Shopping Mall, wounding two and causing tens of thousands of dollars of damage before being apprehended. A few hours earlier, the shooter had purchased armor-piercing ammunition from a nearby Wal-Mart.¹⁹²
- **Lebanon, Tennessee. February 10, 2005.** A second grade student found a Tec-9 inside a closet and brought it to school in his backpack, where it was confiscated by police. The gun was not fired but sixteen bullets were discovered in the magazine.¹⁹³
- **Dayton, Ohio. January 31, 2005.** Three teens were shot with a Russian-made assault rifle following an argument at a grocery store.¹⁹⁴

¹⁸⁸ Bill Hanna & Jack Douglas Jr., *Rampage in Tyler leaves three dead, four wounded*, FORT WORTH STAR-TELEGRAM, Feb. 25, 2005; Jack Douglas Jr. & Bill Hanna, *Police order emergency trace on weapon used in shootings*, FORT WORTH STAR-TELEGRAM, FEB. 26, 2005.

¹⁸⁹ *2 Are Shot to Death at Maintenance Yard*, LOS ANGELES TIMES, Feb. 25, 2005.

¹⁹⁰ Ed Meyer, *Police eye semiautomatic rifles, Brimfield officials want to be prepared after recent shooting rampage that killed 3 people*, AKRON BEACON JOURNAL, Feb. 24, 2005.

¹⁹¹ Brian Haynes, *Wild chase ends in arrests*, LAS VEGAS REVIEW-JOURNAL, Feb. 19, 2005.

¹⁹² *Mall Gunman Had Columbine Fixation, an Official Says*, THE NEW YORK TIMES, Feb. 15, 2005.

¹⁹³ WKRN TV NEWS 2, Nashville, TN, Feb. 10, 2005.

¹⁹⁴ Kelli Wynn, *Assault weapon used in shooting, police say*, DAYTON DAILY NEWS, Feb. 2, 2005.



- **Ravena, Ohio. January 21, 2005.** Three people were killed, including a mother and her seven year old son, when a man fired at least 18 bullets from an assault rifle.¹⁹⁵

Jackson, Tennessee. January 11, 2005. Donna Renee Jordan, 31, David Gordon, 41, and Jerry Hopper, 61, were killed when Jordan's estranged husband, David Jordan, opened fire in a Tennessee Department of Transportation maintenance garage. Two other employees, Larry Taylor and James Goff, were shot and wounded. When David Jordan was arrested shortly after the shootings, police found an SKS assault rifle, a 12-gauge shotgun, and two pistols in his truck. Jordan's wife, whom he shot four times, left behind two children and two stepchildren.

- **Ceres, California. January 9, 2005.** A 19-year-old Marine armed with an SKS assault rifle shot two police officers, killing one, in a gun battle outside a liquor store.¹⁹⁶
- **Newington, Connecticut. December 31, 2004.** A former correction officer used a fully automatic M-16 to fatally shoot a Newington policeman after the officer responded to a domestic disturbance call.¹⁹⁷
- **New Orleans, Louisiana. December 23, 2004.** A mentally challenged 19-year-old was chased through the streets with a high-powered assault rifle before being gunned down outside his former elementary school.¹⁹⁸
- **Hayward, Wisconsin. November 21, 2004.** After being asked to leave another hunter's property, a 36-year-old man opened fire with an SKS semiautomatic rifle, killing six members of a hunting party and wounding two.¹⁹⁹
- **Oak Creek, Wisconsin. November 5, 2004.** A man wearing body armor and armed with a machine gun fled the hotel room where he murdered his girlfriend, firing 30 to 40 rounds down the hotel hallway, killing one man and injuring two others.²⁰⁰
- **Portland, Oregon. October 28, 2004.** A 31-year-old aimed two machine guns out his front window to guard the marijuana growing operation run from his home, which was less than 400 feet from an elementary school. Police seized 29 guns from his home, including several AK-47s and Uzis, a MAC-10 submachine gun and a .50

¹⁹⁵ Stephen Dyer, *Murder suspect pleads insanity*, AKRON BEACON JOURNAL, Feb. 8, 2005.

¹⁹⁶ *Cop, gunman dead: Marine killed after shooting officers*, THE MODESTO BEE, Jan. 11, 2005.

¹⁹⁷ *Officer shot, held hostage*, HARTFORD COURANT, Dec. 31, 2004.

¹⁹⁸ *Barbarity beyond belief*, THE TIMES-PICAYUNE, Dec. 23, 2004.

¹⁹⁹ *Wisconsin Shooting Rampage*, ST. PAUL PIONEER PRESS, Nov. 23, 2004.

²⁰⁰ *2 dead, 2 wounded in hotel shootings*, MILWAUKEE JOURNAL SENTINAL, Nov. 6, 2004.



caliber anti-aircraft gun. He was later sentenced to more than eight years in prison.²⁰¹

- **Minneapolis, Minnesota. October 21, 2004.** A store clerk died after being shot in the chest with an assault rifle during a botched robbery attempt.²⁰²
- **Oakland, California. September 22, 2004.** A 16-year-old honor student was killed on the sidewalk near her home after being struck by errant assault rifle fire.²⁰³

²⁰¹ Local news – Washington County, THE OREGONIAN, May 4, 2006.

²⁰² *3 teens charged with clerk's slaying*, ST. PAUL PIONEER PRESS, Nov. 2, 2004.

²⁰³ *Girl, 16, gunned down in Oakland drive-by*, THE OAKLAND TRIBUNE, Sept. 24, 2004.



Endnotes

¹ *Ferri Used Guns That California Ban Does Not Forbid*, SAN FRANCISCO EXAMINER, July 4, 1993.

² Michael Janofsky, *Columbine killers thank gun suppliers taped comments revealed in hearing*, CLEVELAND PLAIN DEALER, Nov. 13, 1999.

³ *Cult's Massive Weapons Purchases Stir Up a Furor Over Federal Regulation*, FORT WORTH STAR-TELEGRAM, May 2, 1993.

⁴ *Satellite College Campus Helps to Heal the Scars at San Ysidro Massacre*, LOS ANGELES TIMES, Mar. 30, 1989; *A 77-Minute Moment in History That Will Never Be Forgotten*, LOS ANGELES TIMES, July 16, 1989.

⁵ *The Kinds of Guns School Killer Used*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989; Michael Taylor & Leslie Guevarra, *Myterious Scrawlings and Slogans, School Killer's Last Days, Toy Army in his Room*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989.

⁶ In an appendix of this report, we have included 27 pages of assault weapons shootings that have occurred in just the last four years. Moreover, this list is not comprehensive. It is merely representative examples.

⁷ ATF, *Assault Weapons Profile* 19 (1994)

⁸ Judith Bonderman, *In Search of Justice: Compensation for Victims of Assault Weapon Violence*, 20 PRODUCT SAFETY & LIABILITY REP. 25 (June 26, 1992). There are numerous examples of test-firing that display the firepower of semi-automatic assault weapons on YouTube. See, e.g., <http://www.youtube.com/watch?v=nCMEqCPCvV4>; <http://www.youtube.com/watch?v=cYRsPzUYMM4>; and <http://www.youtube.com/watch?v=A75O0-QolJl>.

⁹ ATF, *Assault Weapons Profile*, *supra* note 7, at 19 (emphasis added).

¹⁰ *Id.*

¹¹ *Assault rifles concern police*, MONTGOMERY ADVERTISER, May 25, 2006.

¹² ATF, *Assault Weapons Profile*, *supra* note 7, at 20.

¹³ See *infra* p. 15.

¹⁴ Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles* 38 (1998).

¹⁵ ATF, *Report and Recommendations of the ATF Working Group on the Importability of Certain Semi-Automatic Rifles* (July 6, 1989)

¹⁶ Dep't of Treasury, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14.

¹⁷ Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. PA. JERRY LEE CENTER OF CRIMINOLOGY 3 (June 2004). [Quotation in report spells out 'assault weapons' & 'large capacity magazines' while the actual quotation uses the abbreviations 'AWs' & 'LCMs'].

¹⁸ Press Release, Mayor Hahn, Chief Bratton Unite With Leaders Across Country To Demand Renewal Of Assault Weapons Ban (Apr. 27, 2004) (available at www.lacity.org).

¹⁹ Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, *supra* note 17, at 87. [Quotation in report spells out 'assault weapons' while the actual quotation uses the abbreviation 'AWs'].



²⁰ See International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities: Report and Recommendations from the IACP Great Lakes Summit on Gun Violence* 26 (2007) (noting that FBI data indicated that 41 of the 211 law enforcement officers slain in the line of duty between January 1, 1998 and December 31, 2001, were killed with assault weapons. See also, H.R. Rep. No. 103-489 (1994) at 14-15 (citing testimony about several assault weapons shootings); *Cops Under Fire: Law Enforcement Officers Killed With Assault Weapons or Guns With High Capacity Magazines*, Handgun Control, Inc. (now the Brady Center to Prevent Gun Violence) (1995).

²¹ The Officer Down Memorial Page, Inc. collects information on officers killed in the line of duty. See <http://www.odmp.org/>.

²² *SAPD Details Monday Shooting Investigation*, KSAT12-TV, San Antonio, Texas, Sept. 10, 2008.

²³ Brady McCombs & Alexis Huicochea, *Officer on life support after crosstown pursuit*, ARIZONA DAILY STAR, June 2, 2008.

²⁴ Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; See Sergeant Stephen Liczbinski, [www.odmp.org](http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski), available at: <http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski> (last visited Sept. 30, 2008).

²⁵ David Ovalle et. al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

²⁶ See Officer Frank Charles Denzinger, [odmp.org](http://www.odmp.org/officer/18926-officer-frank-charles-denzinger), available at: <http://www.odmp.org/officer/18926-officer-frank-charles-denzinger> (last visited Sept. 30, 2008).

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⁸⁵ 22-year-old Rupinder “Benny” Oberoi was shot in the lower back outside his place of work in Silver Spring, Maryland on September 14th. 52-year-old liquor store manager Claudine Parker was shot and killed as she and a coworker closed the store in Montgomery, Alabama. 45-year-old beauty supply store manager named Hong Im Ballenger was shot and killed outside a store she managed in Baton Rouge, Louisiana on September 23rd.

⁸⁶ Premkumar A. Walekar of Olney, Maryland, a 54-year-old male cabdriver, was shot and killed with the Bushmaster assault rifle at a Mobil gas station in Aspen Hill, Maryland on October 3rd.

⁸⁷ James L. “Sonny” Buchanan, Jr. of Abingdon, VA, a 39-year-old landscaper, was shot and killed with the Bushmaster assault rifle while mowing grass at a car dealership in White Flint, Maryland On October 3.

⁸⁸ Linda Franklin, a 47-year-old FBI employee was shot and killed with the Bushmaster assault rifle while loading packages with her husband in their car in the parking garage of a Home Depot in Seven Corners Shopping Center in Fairfax County, Virginia On October 14.

⁸⁹ Second Amended Complaint, Halberstam v. S.W. Daniel, Inc., No. 95-C3323 (E.D.N.Y.1998), Nov. 19, 1997.



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⁹¹ Robert O'Harrow, Jr. *Kansi's Shadowy Stay in U.S. Leaves a Hazy Portrait*, WASHINGTON POST, Mar 3, 1993.

⁹² On March 21, 1989, ATF announced a temporary suspension of the importation of five assault weapons. On March 29, 1989, ATF expanded the scope of the suspension to cover all assault weapons "indistinguishable in design, appearance and function to the original five" and established a working group to decide whether to make this import ban permanent. On March 30, 1989, a gun importer challenged ATF's authority to suspend the importation of these weapons. The Eleventh Circuit Court of Appeals upheld ATF's authority to issue the import suspensions. *Gun South, Inc. v. Brady*, 877 F.2d 858 (11th Cir. 1989). ATF then issued its working group report and, pursuant to 18 U.S.C. § 925(d)(3), made the import ban permanent. ATF, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles* *supra* note 15.

⁹³ In April 1998, ATF determined that the 1989 ban on the importation of assault rifles remained valid and expanded the import ban to include rifles with the "ability to accept a detachable large capacity military magazine" because those weapons "cannot fairly be characterized as sporting rifles." ATF, *Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles*, *supra* note 14.

⁹⁴ See ATF, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles*, *supra* note 15, at 5-8 (describing numerous military features of assault weapons).

⁹⁵ *Police Fear a Future of Armored Enemies*, USA TODAY, Mar. 3, 1997.

⁹⁶ Declaration of Leonard J. Supenski in Support of Plaintiffs' Joint Opposition to Navegar, Inc.'s Motion for Summary Judgment or, in the Alternative, Summary Adjudication at 8, In re 101 California Street Bldg., No. 959316 (Sup. Ct. Cal. 1996).

⁹⁷ Jim Zumbo, *Assault Rifles for Hunters?*, available at: http://razoreye.net/mirror/zumbo/zumbo_assault_rifles.html (last visited Oct. 7, 2008).

⁹⁸ *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008).

⁹⁹ The Court was careful to announce only a limited Second Amendment right that was tied to guns used for self-defense in the home. *Id.* at 2821-22. "[W]hatever else [the Second Amendment] leaves to future evaluation, it surely elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Id.* at 2821. "[T]he enshrinement of constitutional rights necessarily takes certain policy choices off the table. These included the absolute prohibition of handguns held and used for self-defense in the home." *Id.* at 2822. "In sum, we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." *Id.* at 2821-22.

¹⁰⁰ *Id.* at 55.

¹⁰¹ See *infra* p. 1, *Assault Weapons are Designed to Slaughter People*.

¹⁰² Those include California, which passed the nation's first statewide ban in May 1989, as well as New Jersey (1990), Hawaii (1991), Connecticut (1993), Maryland (1994), Massachusetts (1998), and New York (2000). California expanded its ban in 2000 to include all semiautomatic rifles or pistols that have the ability to accept a detachable magazine and contain any one of a series of military-style features similar to the list found in the federal ban. CAL. PENAL CODE § 12276.1.

¹⁰³ See *infra* p. 14, *Assault Weapons Have No Sporting or Self-Defense Purpose*.

¹⁰⁴ See, e.g., *Benjamin v. Bailey*, 662 A.2d 1226 (Conn. 1995); *Robertson v. Denver*, 874 P.2d 325 (Colo. 1994); *Arnold v. City of Cleveland*, 616 N.E.2d (Ohio 1993).

¹⁰⁵ Hearings Before the Committee on the Judiciary on S. 639 and S. 653, U.S. Senate, 103d Cong. 1 (Aug. 3, 1993) (statement of Hon. Joseph Biden).



¹⁰⁶ The law was intended to cover “copies or duplicates” of named firearms, 18 U.S.C. § 921(30)(A), but it was never successfully applied to ban any of the copycat weapons that emerged after the ban unless they also violated the two-features test.

¹⁰⁷ The data available at the time of the study went up through the end of 2001.

¹⁰⁸ The conclusions in the On Target study were similar to an analysis of assault weapons traced to crime done for United States Senators Dianne Feinstein and Charles Schumer. This analysis showed that the proportion of banned assault weapons traced to crime dropped by more than 65% while the ban was in effect, according to ATF crime gun trace data. See report released on Nov. 5, 2003, *available at* <http://feinstein.senate.gov/03Releases/r-assaultweprate1.htm>.

¹⁰⁹ In addition to the Brady Center’s study, the U.S. Department of Justice, National Institute of Justice conducted a study, mandated by the Act, of the short-term impact on crime of the assault weapons ban. The study, published in 1999, found that the ban had “clear short-term effects on the gun market,” leading to semiautomatic assault weapons “becom[ing] less accessible to criminals because there was at least a short-term decrease in criminal use of the banned weapons.” Jeffrey A. Roth & Christopher S. Koper, *Impacts of the 1994 Assault Weapons Ban: 1994-96* 1, 9 (U.S. Dep’t of Justice, National Institute of Justice 1999) (*available at* <http://www.ncjrs.org/pdffiles1/173405.pdf>).

¹¹⁰ One of the principal authors of that interim study published a follow-up analysis of the effects of the federal ban in June 2004. Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. PA. JERRY LEE CENTER OF CRIMINOLOGY, *supra* note 17. That study documented a dramatic reduction in the incidence of assault weapon use in crime while the ban was in effect. The study found, according to ATF data, that assault weapons, as a percentage of total crime gun traces, fell 70% from 1992-93 to 2001-02. *Id.* at 44. Indeed, the study found it “remarkable” that the annual number of assault weapons traced to crime did not increase during the period the ban was been in effect, even though, due to far more comprehensive tracing of crime guns by ATF, the number of total guns traced to crime increased almost 200% during that same period. *Id.* As the study noted, these results were consistent with the findings of the Brady Center in its On Target report, discussed above. *Id.* at 44, n.43. Koper’s study attributed these declines in the frequency of assault weapon use in crime to the statute itself, in contradiction to the assertions made by some commentators that the decline was due to other factors. The study found that the decline in frequency of assault weapon traces did not begin until 1994, the year of the ban, and concluded that “the ban prevent[ed] a few thousand crimes with assault weapons annually.” *Id.* at 52, n.61.

¹¹¹ The firearms listed in this data are considered by ATF to be “crime guns,” which means they have been illegally possessed, used in a crime, or suspected of having been used in a crime. ATF, *The Youth Crime Gun Interdiction Initiative, Crime Gun Trace Analysis Reports: The Illegal Youth Firearms Market in 27 Communities* 5 (1999).

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¹¹⁹ See Press Release, Brady Campaign to Prevent Gun Violence, Jim and Sarah Brady “Personally Offended” by Gun Lobby Efforts to Falsify Reagan Record (June 16, 2004) available at: <http://www.bradiycampaign.org/media/release.php?release=565> (quoting letter from President Reagan).

¹²⁰ See Press Release, Brady Campaign to Prevent Gun Violence, Former Presidents Ford, Carter, Clinton Urge President Bush to Save the Assault Weapons Ban (June 7, 2004) available at: <http://www.bradiycampaign.org/media/release.php?release=569>.



EXHIBIT 7
TO THE DECLARATION OF JOHN D. ECHEVERRIA

FM 3-22.9

RIFLE MARKSMANSHIP M16-/M4-SERIES WEAPONS



August 2008

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**HEADQUARTERS
DEPARTMENT OF THE ARMY**

Def. Exhibit 19
Page 000906

FIRING FROM WINDOWS

7-11. When firing from windows, Soldiers should stay in the shadows and make sure that the weapon's muzzle does not protrude out of the opening (Figure 7-7).



Figure 7-7. Firing from a window.

SECTION II. COMBAT FIRE TECHNIQUES

Combat is the ultimate test of a Soldier's ability to apply the fundamentals of marksmanship and firing skills. Soldiers must apply the marksmanship skills mastered during training, practice, and record fire exercises to many combat situations (for example, attack, assault, ambush, or UO). Although these situations present problems, basic techniques and fundamentals require only two modifications: changes to the rate of fire and alterations in weapon/target alignment.

NOTE: The necessary changes are significant and must be thoroughly taught and practiced before performing LFXs.

RAPID SEMIAUTOMATIC FIRE

7-12. The most important firing technique during fast-moving, modern combat is rapid semiautomatic fire. It is the most accurate technique of placing a large volume of fire on poorly defined targets or target areas, such as short exposure, multiple, or moving targets. To apply rapid semiautomatic fire, the Soldier intentionally fires a quick series of shots into the target area to ensure a high probability of a hit.

NOTE: Increased speed and volume should be sought only after the Soldier has demonstrated expertise and accuracy during slow semiautomatic fire.

EFFECTIVENESS AND CONTROL OF RAPID SEMIAUTOMATIC FIRE

7-13. With proper training, Soldiers can select the appropriate mode of fire: semiautomatic fire, rapid semiautomatic fire, or automatic/burst fire.

NOTE: Leaders must ensure that Soldiers apply proper fire discipline at all times. Even in training, unaimed fire must never be tolerated, especially unaimed automatic fire.

7-14. While Soldiers sacrifice some degree of accuracy to deliver a greater volume of fire, it is surprising how devastatingly accurate rapid semiautomatic fire can be. At ranges beyond 25 meters, rapid semiautomatic fire is superior to automatic fire in all measures: shots per target, trigger pulls per hit, and time to hit. Proper training and repeated practice increases the degree of accuracy.

7-15. Rapid application of the four fundamentals will result in a well-aimed shot every one or two seconds. This technique of fire allows a unit to place the most effective volume of fire in a target area while conserving ammunition. It is the most accurate means of delivering suppressive fire.

MODIFICATIONS FOR RAPID SEMIAUTOMATIC FIRE

7-16. Trainers must consider the impact of the increased rate of fire on the Soldier's ability to properly apply the fundamentals of marksmanship and other combat firing skills, such as immediate action procedures.

Marksmanship Fundamentals

7-17. The following paragraphs describe the modifications necessary for Soldiers to apply the four fundamentals when firing in the rapid semiautomatic fire mode.

Steady Position

7-18. Consider the following modifications to achieve a steady position:

- Make sure that the weapon is well-supported to improve accuracy and reduce recovery time between shots.
- Grip the handgrip tightly to reduce recovery time and rapidly shift or distribute fire to subsequent targets.
- When possible, pivot the weapon where the nonfiring hand meets the support.
- Avoid changing the position of the nonfiring hand on the support; it is awkward and time-consuming when rapidly firing a series of shots.

Aiming

7-19. Consider the following recommendations to properly aim the weapon:

- Do not change sighting and stock weld during rapid semiautomatic fire. Keep the cheek on the stock for every shot, align the firing eye with the rear aperture, and focus on the front sightpost.
- When using slow semiautomatic fire, seek a stable sight picture.
- In the fast-moving situations that require rapid semiautomatic fire, accept target movement and unsteady sight picture, and keep firing into the target area until the target is down or there is no chance of a hit.
- Aim every shot.

Breath Control

7-20. Breath control must be modified because the Soldier does not have time to take a complete breath between shots. Consider the following modifications to achieve proper breath control:

- Hold your breath at some point in the firing process.
- Take shallow breaths between shots.

Chapter 7

Trigger Squeeze

7-21. To maintain the desired rate of fire, the Soldier has a brief period of time to squeeze the trigger. The firer must cause the weapon to fire in about half of a second or less and still not anticipate the precise moment of firing. Consider the following modifications to achieve proper trigger squeeze:

- Apply initial trigger pressure as soon as a target is identified and while the front sightpost is being brought to the desired point of aim.
- When the front sightpost reaches the point of aim, apply final pressure to cause the weapon to fire almost at once. Apply this additional pressure, also known as final trigger squeeze, without disturbing the lay of the weapon.
- Increase the firing rate by firing, releasing enough trigger pressure to reset the sear, and then immediately firing the next shot. This technique is called rapid trigger squeeze. It eliminates the time used in fully releasing pressure on the trigger and allows the firer to rapidly deliver subsequent rounds.

NOTE: Training and practice sessions are required for Soldiers to become proficient in the technique of rapid trigger squeeze.

7-22. Repeated dry-fire training using simulators, such as the EST 2000 and LMTS, and live-fire practice ensure that the Soldier can squeeze the trigger and maintain a rapid rate of fire consistently and accurately.

Immediate Action Procedures

7-23. To maintain an increased rate of suppressive fire, Soldiers must apply immediate action quickly. Repeated dry-fire practice using blanks or dummy rounds, followed by live-fire training and evaluation, ensures that Soldiers can rapidly apply immediate action procedures while other Soldiers initiate fire.

RAPID SEMIAUTOMATIC FIRE TRAINING

NOTE: Soldiers should be well-trained in all aspects of slow semiautomatic firing before attempting any rapid semiautomatic fire training. Those who display a lack of knowledge of fundamental marksmanship skills should not advance to rapid semiautomatic fire training until these skills are learned and mastered.

7-24. Initial training should focus on the modifications to the fundamentals and other basic combat skills necessary during rapid semiautomatic firing.

NOTE: See Table 7-1 for the current training program.

Table 7-1. Rapid semiautomatic fire training program.

RAPID SEMIAUTOMATIC FIRE TRAINING PROGRAM	
Instructional Intent	
<ul style="list-style-type: none"> Soldiers learn to engage targets using rapid semiautomatic fire and practice rapid magazine changes. 	
Special Instructions	
Ensure that— <ul style="list-style-type: none"> The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture. The M16A1's rear sight is set on the unmarked aperture. Soldiers use a 25-meter alternate course C qualification target. Each Soldier is given four 5-round magazines of 5.56-millimeter ball ammunition. Soldiers use rapid semiautomatic fire to engage targets. Each Soldier fires one round at each of the 10 silhouettes on the alternate course C qualification target. Each Soldier does a rapid magazine change after each magazine is fired. The first iteration of 10 rounds is fired within a time limit of 40 seconds. The second iteration of 10 rounds is fired within a time limit of 30 seconds. Each target is inspected, and the results are posted after each iteration. 	
Observables	
<ul style="list-style-type: none"> Coaches continuously analyze the firer's application of the fundamentals. Each Soldier obtains 14 hits out of 20 silhouette target exposures. 	

Conduct

7-25. Each Soldier receives four 5-round magazines of 5.56-millimeter ball ammunition. Using rapid semiautomatic fire, the Soldier fires one round at each of the 10 silhouettes on the alternate course C qualification target. Soldiers fire two iterations, performing a rapid magazine change after each magazine is fired. The targets are inspected, and the results are posted after each iteration. Each Soldier must obtain 14 hits out of 20 silhouette target exposures.

7-26. Table 7-2 depicts the two iterations and provides related information, such as time constraints, number of rounds that must be fired, type of target that must be used, and the distance away from the firer that the target must be placed.

Table 7-2. Rapid semiautomatic fire training and related information.

ITERATION	TIME CONSTRAINTS	NUMBER OF ROUNDS	TYPE OF TARGET	DISTANCE (m)
1	40 sec	10	25-m alternate course C qualification target	25
2	30 sec	10	25-m alternate course C qualification target	25

Dry-Fire Exercises

7-27. Repeated dry-fire exercises are the most efficient means to ensure that Soldiers can apply modifications to the fundamentals. Multiple dry-fire exercises are needed, emphasizing a rapid shift in position and point of aim, followed by breath control and fast trigger squeeze.

- NOTES:**
- Blanks or dummy rounds may be used to train rapid magazine changes and immediate action procedures.
 - The Soldier should display knowledge and skill during dry-fire exercises before attempting LFXs.

Chapter 7

Live-Fire Exercises

7-28. There are two types of LFXs:

- Individual.
- Collective.

Individual

7-29. To conduct an individual LFX—

- Ensure that the emphasis is on each Soldier maintaining a heavy volume of accurate fire.
- Keep weapon downtime (during immediate action and rapid magazine changes) to a minimum.
- Begin by firing at shorter ranges, progressing to longer ranges as Soldiers display increased proficiency.
- Shorten exposure or engagement times and increase the number of rounds to simulate the need for a heavy volume of fire.
- Provide downrange feedback to determine the accuracy of fire.

Collective

7-30. Rapid semiautomatic fire should be the primary means of delivering fire during a collective LFX. To conduct a collective LFX, ensure that the emphasis is on performing staggered rapid magazine changes, maintaining a continuous volume of fire, and conserving ammunition.

AUTOMATIC OR BURST FIRE

NOTE: Automatic or burst fire should be trained only after the Soldier has demonstrated expertise during slow and rapid semiautomatic fire.

7-31. When applying automatic or burst fire, Soldiers deliver the maximum number of rounds (one to three rounds per second) into a designated target area while rapidly applying the four fundamentals. This specialized technique of delivering suppressive fire may not apply to most combat engagements.

NOTE: The M16A1/A3 rifle and M4A1 carbine have fully automatic settings. The M16A2/A4 rifle and M4 carbine use a three-round burst capability.

EFFECTIVENESS AND CONTROL OF AUTOMATIC OR BURST FIRE

7-32. Automatic or burst fire is inherently less accurate than semiautomatic fire. The first fully automatic shot fired may be on target, but recoil and a high cyclic rate of fire often combine to place subsequent rounds far from the desired point of impact. Even controlled (three-round burst) automatic or burst fire may place only one round on the target. Because of these inaccuracies, it is difficult to evaluate the effectiveness of automatic or burst fire, and even more difficult to establish absolute guidelines for its use.

FACTORS FOR USE OF SEMIAUTOMATIC VERSUS AUTOMATIC OR BURST FIRE

7-33. Trainers must ensure that Soldiers understand the capabilities and limitations of automatic or burst fire. They must know when it should and should not be used.

Semiautomatic Fire

7-34. M16 rifles and M4 carbines should normally be employed in the semiautomatic fire mode.

7-35. Depending on the tactical situation, Soldiers should employ the semiautomatic fire mode in the following conditions:

- Ammunition is in short supply, or resupply may be difficult.
- Single targets are being engaged.
- Widely spaced multiple targets are being engaged.
- The target is located more than 50 meters away.
- The effect of bullets on the target cannot be observed.
- Artificial support is not available.
- Targets may be effectively engaged using semiautomatic fire.

Automatic or Burst Fire

7-36. In some combat situations, the use of automatic or burst fire can improve survivability and enhance mission accomplishment. Clearing buildings, final assaults, FPF, and ambushes may require limited use of automatic or burst fire.

7-37. Depending on the tactical situation, Soldiers should employ automatic or burst fire in the following conditions:

- Ammunition is readily available, and there are no problems with resupply.
- Closely spaced multiple targets are located 50 meters away or less.
- Maximum fire is immediately required at an area target.
- Tracers or some other means can be used to observe the effect of bullets on the target.
- Leaders can maintain adequate control over weapons firing in the automatic fire mode.
- Good artificial support is available.
- The initial sound of gunfire disperses closely spaced enemy targets.

MODIFICATIONS FOR AUTOMATIC OR BURST FIRE

7-38. Automatic or burst fire is inherently less accurate than semiautomatic fire. Trainers must consider the impact of recoil and the high cyclic rate of fire on the Soldier's ability to properly apply the fundamentals of marksmanship and other combat firing skills, such as immediate action procedures and rapid magazine changes.

Marksmanship Fundamentals

7-39. The following paragraphs describe the modifications necessary for Soldiers to apply the four fundamentals when firing in the automatic fire mode.

Steady Position

7-40. Consider the following modifications to achieve a steady position:

- Make sure that the weapon is well-supported.
- Grip the weapon a little more firmly and pull it into the shoulder a little tighter than when in the semiautomatic fire mode.

NOTE: This support and increased grip help offset the progressive displacement of weapon/target alignment caused by recoil.

- To provide maximum stability, assume the modified supported prone firing position (Figure 7-4).

Chapter 7

NOTE: If the weapon is equipped with the ARS, use the vertical pistol grip to further increase control of the weapon.

Aiming

7-41. Consider the following recommendations to properly aim the weapon:

- Do not change sighting and stock weld during automatic or burst fire. Keep the cheek on the stock for every shot, align the firing eye with the rear aperture, and focus on the front sightpost.
- Although recoil may disrupt this process, try to apply the aiming techniques throughout recoil.

Breath Control

7-42. Breath control must be modified because the Soldier does not have time to take a complete breath between shots. Consider the following modifications to achieve proper breath control:

- Hold your breath at some point in the firing process.
- Take shallow breaths between shots.

Trigger Squeeze

7-43. Training and repeated dry-fire practice aid the Soldier in applying proper trigger squeeze during automatic firing. LFXs enable him to improve this skill.

M16A2/3/4 Rifles and M4 Carbines

7-44. Until the weapon fires, trigger squeeze is applied in the normal manner. To use the burst fire mode—

- (1) Hold the trigger to the rear until three rounds are fired.
- (2) Release pressure on the trigger until it resets.
- (3) Reapply pressure for the next three-round burst.

NOTES:

1. Do not slap or jerk the trigger. Squeeze it, and then quickly release pressure.
2. Depending on the position of the burst can when the selector is moved to the burst fire mode, the weapon may fire one, two, or three rounds when the trigger is held to the rear for the first time. If the weapon fires only one or two rounds, quickly release pressure on the trigger and squeeze again, holding it to the rear until a three-round burst is completed.

M16A1 Rifles

7-45. Until the weapon fires, trigger squeeze is applied in the normal manner. Because three-round bursts are the most effective rate of fire, pressure on the trigger should be released as quickly as possible. To use the burst fire mode, keep the index finger on the trigger, but quickly release pressure to prevent an excessive number of rounds from being fired in one burst. With much dry-fire practice, the Soldier can become proficient at delivering three-round bursts with the squeeze/release technique.

Immediate Action

7-46. To maintain an increased rate of suppressive fire, Soldiers must apply immediate action quickly. Repeated dry-fire practice using blanks or dummy rounds, followed by live-fire training and evaluation, ensures that Soldiers can rapidly apply immediate action procedures.

Rapid Magazine Changes

7-47. Rapid magazine changes are vital in maintaining automatic or burst fire. Rapid magazine changes must be correctly taught and practiced during dry-fire and live-fire exercises until the Soldier becomes proficient.

AUTOMATIC OR BURST FIRE TRAINING

NOTE: Soldiers should be well-trained in all aspects of slow semiautomatic firing before attempting any automatic training. Those who display a lack of knowledge of fundamental skills should not advance to automatic or burst fire training until these skills are learned.

7-48. Initial training should focus on the modifications to the fundamentals and other basic combat skills necessary during automatic firing.

7-49. Unit training is vital to properly applying this technique. Soldiers must be taught the advantages and disadvantages of automatic and burst firing so they know when it should be used. Without this knowledge, Soldiers tend to switch to the automatic or burst fire mode in life-threatening situations.

NOTE: See Table 7-3 for the current training program.

Table 7-3. Automatic or burst fire training program.

AUTOMATIC OR BURST FIRE TRAINING PROGRAM	
Instructional Intent	
<ul style="list-style-type: none"> Soldiers learn the advantages and disadvantages of automatic or burst fire. 	
Special Instructions	
Ensure that— <ul style="list-style-type: none"> The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture. The M16A1's rear sight is set on the unmarked aperture. Soldiers use a 25-meter alternate course C qualification target. Each Soldier is in a proper modified automatic/burst firing position. Each Soldier is given two 15-round magazines of 5.56-millimeter ball ammunition. Each Soldier fires one 3-round burst at each of the 10 silhouettes on the alternate course C qualification target. Each Soldier does a rapid magazine change after each magazine is emptied. 	
Observables	
<ul style="list-style-type: none"> Each Soldier obtains five target hits. Soldiers demonstrate control of the weapon in the automatic/burst fire mode. 	

Conduct

7-50. Each Soldier receives two 15-round magazines of 5.56-millimeter ball ammunition. Each Soldier fires one 3-round burst at each of the 10 silhouettes on the alternate course C qualification target, performing a rapid magazine change after each magazine is emptied. Each Soldier must obtain five target hits.

7-51. Table 7-4 depicts automatic or burst fire training and provides related information, such as number of rounds that must be fired, type of target that must be used, and the distance away from the firer that the target must be placed.

Table 7-4. Automatic or burst fire training and related information.

FIRING POSITION	NUMBER OF ROUNDS	TYPE OF TARGET	DISTANCE (m)
Modified automatic/burst firing position	30, one 3-round burst at each of the 10 silhouettes	Alternate course C qualification target	25

Chapter 7

Dry-Fire and Live-Fire Exercises

7-52. Repeated dry-fire exercises are the most efficient means to ensure that Soldiers can apply modifications to the fundamentals. Multiple dry-fire exercises are needed, emphasizing a stable position and point of aim, followed by breath control and appropriate trigger squeeze.

-
- NOTES:**
1. Blanks or dummy rounds may be used to train trigger squeeze, rapid magazine changes, and immediate action procedures.
 2. The Soldier should display knowledge and skill during dry-fire exercises before attempting LFXs.
-

SUPPRESSIVE FIRE

7-53. Suppressive fire is precisely aimed at a definite point or area target. Some situations may require a Soldier to place suppressive fire into a wide area (for example, wood line, hedgerow, or small building) while, at other times, the target may be a smaller area (for example, a bunker or window). Suppressive fire is used to control the enemy and the area he occupies. It is employed to kill the enemy or to prevent him from observing the battlefield, effectively using his weapons, or moving.

EFFECTIVENESS AND CONTROL OF SUPPRESSIVE FIRE

7-54. Many Soldiers have difficulty delivering effective suppressive fire when they cannot see a definite target, only likely locations or general areas where the enemy is known to exist. Even though definite targets cannot be seen, most suppressive fire should be well-aimed.

7-55. When controlling suppressive fires, two factors must be considered:

- Point of aim.
- Rate of fire.

Point of Aim

7-56. Suppressive fire should be well-aimed, sustained, semiautomatic fire. Although lacking a definite target, the Soldier must be taught to control and accurately deliver fire within the limits of the suppressed area. As when engaging a point target, the weapon sights are used, with the front sightpost placed so each shot impacts within the desired area.

Rate of Fire

7-57. During most phases of live-fire training (for example, grouping, zeroing, qualifying), shots are delivered using slow semiautomatic fire (one round every 3 to 10 seconds). During training, this allows a slow and precise application of the fundamentals. Successful suppressive fire requires a faster, but sustained, rate of fire. Soldiers may need to fire full automatic or bursts (13 rounds per second) for a few seconds to gain initial fire superiority. Rapid semiautomatic fire (one round every one or two seconds) allows the firer to sustain a large volume of accurate fire while conserving ammunition.

MODIFICATIONS FOR SUPPRESSIVE FIRE

7-58. The tactical situation dictates the most useful rate of fire, but the following must be considered:

- Marksmanship fundamentals.
- Rapid magazine changes.
- Ammunition conservation.

Marksmanship Fundamentals

7-59. As the stress of combat increases, some Soldiers may fail to apply the fundamentals of marksmanship. This factor contributes to reduced accuracy and effectiveness. While some modifications are appropriate, the basic fundamentals should be applied and emphasized—regardless of the rate of fire or combat stress. Strategies to enhance marksmanship skills under combat stress include shooting in the prone position, as opposed to standing.

7-60. Factors that contribute to combat stress are:

- Environmental.
- Operational.

Environmental

7-61. Environmental stressors have been shown to degrade marksmanship accuracy up to 20 percent. Such stressors include—

- Heat.
- Altitude.

Operational

7-62. Operational stressors have been shown to degrade marksmanship accuracy from 17 percent to 136 percent. Such stressors include—

- MOPP gear.
- Tasks that require carrying rucksacks, litter patients, and other equipment on the body.
- Sleep deprivation.

Rapid Magazine Changes

7-63. One of the keys to sustained suppressive fire is reloading the weapon rapidly. Rapid magazine changes must be correctly taught and practiced during dry-fire and live-fire exercises until the Soldier becomes proficient. Small-unit training exercises must be conducted so Soldiers who provide suppressive fire practice staggered magazine changes.

Ammunition Conservation

7-64. Automatic or burst fire should be used sparingly and only to gain initial fire superiority. Depending on the tactical situation, the rate of fire should be adjusted so that a minimum number of rounds are expended. Accurate fire conserves ammunition, while preventing the enemy from placing effective fire on friendly positions.

SUPPRESSIVE FIRE TRAINING

NOTE: See Table 7-5 for the current training program.

Table 7-5. Suppressive fire training program.

SUPPRESSIVE FIRE TRAINING PROGRAM	
Instructional Intent	
<ul style="list-style-type: none"> Soldier learns to suppress targets using suppressive fire. 	
Special Instructions	
<p>Ensure that—</p> <ul style="list-style-type: none"> The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture. The M16A1's rear sight is set on the unmarked aperture. Soldiers use a 25-meter scaled landscape target. Each Soldier is given two 9-round magazines and one 12-round magazine of 5.56-millimeter ball ammunition. Each Soldier is in a proper supported firing position. Each Soldier fires 9 rounds at the open window area of the target using rapid semiautomatic fire with the first 9-round magazine. Each Soldier fires 12 rounds at the fence or hedgerow area of the target using rapid semiautomatic fire with the 12-round magazine. Each Soldier fires three 3-round bursts at the tank turret area of the target using the automatic/burst fire mode with the second 9-round magazine. 	
Observables	
<ul style="list-style-type: none"> Each Soldier achieves 5 hits inside the open window area within 18 seconds. Each Soldier achieves 10 hits inside the dotted lines surrounding the fence or hedgerow area within 24 seconds. Each Soldier achieves 3 hits inside the tank turret area within 24 seconds. 	

7-65. Figure 7-8 shows a landscape target suitable for suppressive fire training. When this type of target is used, trainers must develop a firing program to include areas of engagement and designated target areas. At 25 meters, this target provides the firer with an area to suppress without definite targets to engage.

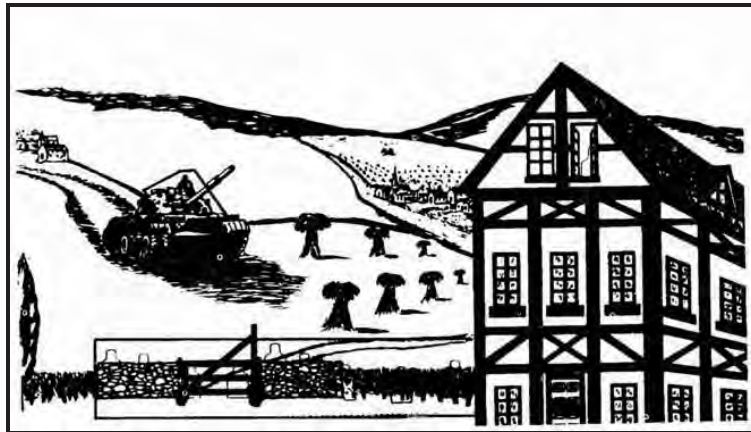


Figure 7-8. Landscape target.

Conduct

7-66. Each Soldier receives two 9-round magazines and one 12-round magazine of 5.56-millimeter ball ammunition. The Soldier engages three areas of a 25-meter scaled landscaped target: the open window area, the fence or hedgerow area, and the tank turret area. Each Soldier achieves 5 hits inside of the open window area, 10 hits inside of the dotted lines surrounding the fence or hedgerow area, and 3 hits inside of the tank turret area.

7-67. Table 7-6 depicts suppressive fire training and provides related information, such as number of rounds that must be fired, type of target that must be used, and the distance away from the firer that the target must be placed.

Table 7-6. Suppressive fire training and related information.

FIRING POSITION	TYPE OF TARGET	AREA OF TARGET ENGAGED	NUMBER OF ROUNDS	TYPE OF FIRE	TIME CONSTRAINTS
Supported firing position	25-m scaled landscape target	Open window	9	Rapid semiautomatic	18 sec
		Fence or hedgerow	12	Rapid semiautomatic	24 sec
		Tank turret	9, in three 3-round bursts	Automatic/burst	24 sec

QUICK FIRE

7-68. The two main techniques of directing fire with a rifle or carbine are—

- Aim using the sights.
- Use weapon alignment, instinct, bullet strike, or tracers to direct the fire.

7-69. The preferred technique is to use the sights, but sometimes quick reflex action is required. Quick fire, also known as instinctive firing or quick kill, is a technique used to deliver fast, effective fire on surprise personnel targets 25 meters away or less.

EFFECTIVENESS AND CONTROL OF QUICK FIRE

7-70. Quick fire techniques are appropriate when Soldiers are presented with close, suddenly appearing, surprise enemy targets; or when close engagement is imminent.

NOTE: Fire may be delivered in the SEMIAUTO or AUTOMATIC/BURST fire mode. For example, a point man in a patrol may carry the weapon on AUTOMATIC/BURST. This may also be required when clearing a room or bunker. Initial training should be in the SAFE mode.

7-71. Two techniques of delivering quick fire are:

- Aimed.
- Pointed.

7-72. The difference in the speed of delivery of these two techniques is small. Pointed quick fire can be used to fire a shot about one-tenth of a second faster than aimed quick fire. The difference in accuracy, however, is more pronounced:

- A Soldier well-trained in pointed quick fire can hit an E-type silhouette target at 15 meters, although the shot may strike anywhere on the target.
- A Soldier well-trained in aimed quick fire can hit an E-type silhouette target at 25 meters, with the shot or burst striking 5 inches from the center of mass.

7-73. This variance of target hit for this type of engagement reinforces the need for well-aimed shots.

Chapter 7

7-74. Pointed and aimed quick fire should be used only when a target cannot be engaged fast enough using the sights in a normal manner. These techniques should be limited to targets appearing at 25 meters or less. Modern short-range combat (SRC) techniques emphasize carrying the weapon with the buttstock high so that the weapon sights can be brought into display as quickly as firing a hasty unaimed shot. In extremely dangerous moments, special reaction teams (SRTs) commonly advance with weapons shouldered, aiming as they advance.

Aimed

7-75. When using this technique, a Soldier can accurately engage a target at 25 meters or less in one second or less.

7-76. To use aimed quick fire (Figure 7-9)—

- (1) Bring the weapon to the shoulder.
- (2) With the firing eye, look through or just over the rear sight aperture.
- (3) Use the front sightpost to aim at the target.
- (4) Quickly fire a single shot.



Figure 7-9. Aimed quick fire.

Pointed

7-77. When using this technique, a Soldier can engage a target at 15 meters or less in less than one second.

7-78. To use pointed quick fire (Figure 7-10)—

- (1) Keep the weapon at your side.
- (2) Keeps both eyes open, and use instinct and peripheral vision to line up the weapon with the target.
- (3) Quickly fire a single shot or burst.



Figure 7-10. Pointed quick fire.

FACTORS FOR USE OF CONTROLLED PAIRS VERSUS BURST FIRE

7-79. Tactical considerations dictate whether controlled pairs or burst fire is most effective in a given situation.

MODIFICATIONS FOR QUICK FIRE

7-80. Trainers must consider the impact of the increased rate of fire on the Soldier's ability to properly apply the fundamentals of marksmanship and other combat firing skills.

Marksmanship Fundamentals

7-81. Quick fire techniques require major modifications to the four fundamentals of marksmanship. Initial training in these differences, followed by repeated dry-fire exercises, will be necessary to prepare the Soldier for live-fire.

Steady Position

7-82. The quickness of shot delivery prevents the Soldier from assuming a stable firing position. Consider the following modifications:

- Fire from the present position when the target appears.
- If moving, stop.
- Do not make adjustments for stability and support before the round is fired.

Aimed

7-83. Consider the following modifications:

- (1) Pull the weapon's buttstock into the pocket of the shoulder as the cheek comes in contact with the stock.
- (2) Firmly grip the weapon with both hands, applying rearward pressure.
- (3) Place the firing eye so that it looks through or just over the rear sight aperture.
- (4) Place the sight on the target.

Pointed

7-84. Consider the following modifications:

- Pull the weapon into the side.
- Firmly grip the weapon with both hands, applying rearward pressure.

Aiming

7-85. This fundamental must be highly modified because the Soldier may not have time to look through the rear sight, find the front sight, and align it with the target.

NOTE: When using either aiming technique, bullets may tend to impact above the desired location. Repeated live-fire practice is necessary to determine the best point of aim or the best focus. Such practice should begin with the Soldier using a center of mass aim.

Aimed

7-86. Consider the following modified procedure:

- (1) Initially focus on the target.
- (2) Place the firing eye so that it looks at the target through or just over the rear sight aperture.
- (3) Using peripheral vision, locate the front sightpost and bring it to the center of the target.

NOTE: Focus remains on the front sightpost throughout the aiming process.

- (4) When the front sightpost is in focus, fire a controlled pair.

Pointed

7-87. Consider the following modifications:

- Place the focus on or slightly below the center of the target as you align the weapon with it, and fire the weapon.
- Use your instinctive pointing ability and peripheral vision to aid in proper alignment.

Breath Control

7-88. This fundamental has little application to the first shot of quick fire. The round must be fired before a conscious decision can be made about breathing. If subsequent shots are necessary, breathing must not interfere with the necessity of firing quickly. When possible, use short, shallow breaths.

Trigger Squeeze

7-89. Consider the following modifications:

- (1) Apply initial pressure as weapon alignment is moved toward the target.
- (2) Exert trigger squeeze so when weapon/target alignment is achieved, the rounds are fired at once.

7-90. Perfecting rapid trigger squeeze requires much training and practice.

QUICK FIRE TRAINING

NOTE: Only Soldiers in basic training will conduct quick fire training. SRM will be conducted at the unit level. See Section VI of this chapter for more information about SRM training.

7-91. The key to the successful employment of both quick fire techniques is practice. Both pointed and aimed quick fire must be repeatedly practiced during dry-fire training. LFXs provide further skill enhancement and illustrate the difference in accuracy between the two techniques.

NOTE: See Table 7-7 for the current training program.

Table 7-7. Quick fire training program.

QUICK FIRE TRAINING PROGRAM	
Instructional Intent	
<ul style="list-style-type: none"> Soldiers learn how to engage targets using the quick fire techniques. 	
Special Instructions	
Ensure that— <ul style="list-style-type: none"> The M16A2/A3/A4 rifle's or M4 carbine's rear sight is set on the 0-2 aperture. The M16A1's rear sight is set on the unmarked aperture. Each Soldier is given two 10-round magazines. Each Soldier engages 10 target exposures of 2 seconds each at 15 meters using the first 10-round magazine. Each Soldier moves to the 25-meter line and engages 10 target exposures of 2 seconds each at 25 meters using the second 10-round magazine. 	
Observables	
<ul style="list-style-type: none"> Each Soldier achieves 7 hits out of 10 target exposures at 15 meters. Each Soldier achieves 5 hits out of 10 target exposures at 25 meters. 	

Conduct

7-92. Each Soldier receives two 10-round magazines. Each Soldier must achieve 7 target hits out of 10 target exposures at 15 meters and 5 target hits out of 10 target exposures at 25 meters.

7-93. Table 7-8 depicts quick fire training and provides related information, such as the number of target exposures, distance from the firer, number of rounds that must be fired, and time constraints.

Table 7-8. Quick fire training and related information.

NUMBER OF TARGET EXPOSURES	DISTANCE	NUMBER OF ROUNDS	TIME CONSTRAINTS
10	15	10	2 sec per target exposure
10	15	10	2 sec per target exposure

SECTION III. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR FIRING

All Soldiers must effectively fire their weapons to accomplish combat missions in a CBRN environment. With proper training and practice, Soldiers gain confidence in their ability to effectively hit targets in full MOPP equipment. MOPP firing proficiency must be part of every unit's training program.

MISSION-ORIENTED PROTECTIVE POSTURE EQUIPMENT FIRE

7-94. Firing weapons is only part of overall CBRN training. Soldiers must be familiar with CBRN equipment, its use, and proper wear before they progress to learning the techniques of MOPP firing.

MODIFICATIONS FOR MISSION-ORIENTED PROTECTIVE POSTURE FIRE TRAINING

7-95. Trainers must consider the impact of MOPP equipment (for example, hood or mask, gloves, overgarments) on the Soldier's ability to properly apply the fundamentals of marksmanship and combat firing skills.

7-177. To turn to the rear—

- (1) Position the firing-side foot forward.
- (2) Place the body weight on the firing-side foot.
- (3) Pivot the body, similar to the drill movement "rear march."

AIMING TECHNIQUES

7-178. Four aiming techniques are used during SRC:

- Slow aimed fire.
- Rapid aimed fire.
- Aimed quick kill.
- Instinctive fire.

7-179. Each has advantages and disadvantages, and the Soldier must understand when, how, and where to use each technique.

Slow Aimed Fire

7-180. Slow aimed fire is the slowest, but most accurate, technique. When using this technique, Soldiers take a steady position, properly align the sight picture, and squeeze off rounds. This technique should only be used to engage targets more than 25 meters away, when good cover and concealment is available, or when the need for accuracy overrides the need for speed.

Rapid Aimed Fire

7-181. The rapid aimed fire technique utilizes an imperfect sight picture. When using this technique, the Soldier focuses on the target and raises his weapon until the target is obscured by the front sightpost. Elevation is less critical than windage when using this technique. This aiming technique is extremely effective on targets 0 to 15 meters away.

Aimed Quick Kill

7-182. The aimed quick kill technique is the quickest and most accurate method of engaging targets up to 12 meters away. As Soldiers become more experienced at using this technique, they may use it at greater ranges. When using this technique, the Soldier aims over the rear sight, down the length of the carrying handle, and places the top $\frac{1}{2}$ to $\frac{3}{4}$ of an inch of the front sightpost on the target.

Instinctive Fire

7-183. Instinctive fire is the least accurate technique and should only be used in emergencies. It relies on instinct, experience, and muscle memory. To use this technique, the firer concentrates on the target and points the weapon in the general direction of the target. While gripping the handguards with the nonfiring hand, he extends the index finger to the front, automatically aiming the weapon on a line toward the target.

POINT OF AIM

7-184. Most short-range engagements will be decided by who hits his target with the first round. During this type of engagement, it is more important to put the target down as quickly as possible than it is to kill him immediately.

7-185. Soldiers must aim at the lethal zone (center of mass) of the body. Although shots to the center of the body may prove to be eventually fatal, they may not immediately incapacitate the target. A shot that does not immediately incapacitate the target may be no better than a clean miss. Because of this, and the possible presence of military equipment or protective vests, Soldiers must also be able to engage targets with incapacitating shots.

Chapter 7**Lethal Shot Placement**

7-186. The target's lethal zone (Figure 7-24) is its center of mass, between the waist and the chest. Shots in this area maximize the hydrostatic shock of the shot pellets. Due to the nature of SRC, Soldiers must continue to engage targets until they go down.



Figure 7-24. Lethal zone.

Incapacitating Shot Placement

7-187. Only one shot placement guarantees immediate and total incapacitation: roughly centered in the face, below the middle of the forehead and the upper lip, and from the eyes in. Shots to the side of the head should be centered between the crown of the skull and the middle of the ear opening, from the center of the cheekbones to the middle of the back of the head (Figure 7-25).

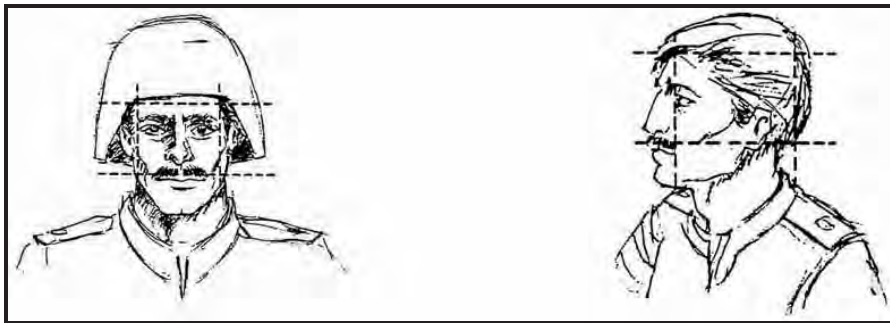


Figure 7-25. Incapacitation zone.

TRIGGER MANIPULATION

7-188. SRC engagements are usually quick, violent, and deadly. Due to the reduced reaction time, imperfect sight picture, and requirement to effectively place rounds into targets, Soldiers must fire multiple rounds during each engagement in order to survive. Multiple shots may be fired either through the use of a controlled pair or automatic weapon fire.

Controlled Pair

7-189. A controlled pair is two rounds fired in rapid succession. Controlled pairs should be fired at single targets until they go down. When multiple targets are present the Soldier must fire a controlled pair at each target, and then reengage any targets left standing. To fire a controlled pair—

- (1) Fire the first round, and allow the weapon to move in its natural arc without fighting the recoil.
- (2) Rapidly bring the weapon back on target, and fire a second round.

7-190. Soldiers must practice firing the controlled pair until it becomes instinctive.

Automatic Fire

7-191. While rapid, aimed, semiautomatic fire is the most accurate method of engaging targets during SRC and controlled three-round bursts are better than automatic fire, automatic weapon fire may be necessary to maximize violence of action or gain fire superiority when gaining a foothold in a room, building, or trench. When properly trained, Soldiers should be able to fire six rounds (two three-round bursts) in the same time it takes to fire a controlled pair. With practice, the accuracy of engaging targets can be equal to that of semiautomatic fire at 10 meters.

NOTE: The key to burst or automatic firing is to squeeze the trigger, not jerk it.

7-192. For the majority of Soldiers, fully automatic fire is rarely effective and can lead to unnecessary noncombatant casualties or fratricide. Not only is fully automatic fire inaccurate and difficult to control, but it also rapidly empties ammunition magazines. A Soldier who finds himself out of ammunition with an armed, uninjured enemy Soldier during SRC will become a casualty unless a fellow Soldier intervenes.

Failure Drill

7-193. To make sure that a target is completely neutralized, Soldiers should be trained to execute the failure drill. The firer will fire a controlled pair into the lethal zone, followed by a third round placed into the incapacitation zone. This type of target engagement is particularly useful when engaging targets wearing body armor.

PRELIMINARY SHORT-RANGE MARKSMANSHIP INSTRUCTION

7-194. As with all other forms of marksmanship training, preliminary SRM instruction must be conducted to establish a firm foundation. Soldiers must be taught, and must understand, the fundamentals of SRM. Blank-fire drills are conducted to ensure a thorough understanding of the fundamentals, as well as to provide the trainers with valuable feedback about each Soldier's level of proficiency.

NOTE: To maximize safety during training and in combat situations, it is important to emphasize muzzle awareness and selector switch manipulation during preliminary SRM instruction. The risk of fratricide or noncombatant casualties is greatest during SRC.

7-195. Table 7-17 outlines the tasks that preliminary SRM instruction should include (at a minimum).

EXHIBIT 8
TO THE DECLARATION OF JOHN D. ECHEVERRIA

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
3
4

5 **STEVEN RUPP; et al.,**

6 Plaintiffs,

7 v.
8

9 **XAVIER BECERRA, in his official**
10 **capacity as Attorney General of the**
11 **State of California et al.,**

12 Defendants.

8:17-cv-00746-JLS-JDE

**EXPERT REPORT AND
DECLARATION OF DETECTIVE
MICHAEL MERSEREAU OF THE
LOS ANGELES POLICE
DEPARTMENT**

13 I, Michael Mersereau, declare and state as follows:

14 1. I am a Detective employed by the Los Angeles Police Department (the
15 "LAPD") as a sworn officer for approximately 22 years. I have personal
16 knowledge of the facts set forth below except those stated on information and
17 belief. As to those facts, I believe them to be true and if called as a witness, could
18 and would testify competently thereto.

19 2. I am currently assigned to the LAPD Gun Unit and have been for
20 approximately 15 years. The LAPD Gun Unit is involved exclusively in the
21 enforcement of the California Dangerous Weapons Control Act and the Municipal
22 Code of the City of Los Angeles as it pertains to firearms. Prior to this assignment,
23 I worked uniform patrol, unformed gangs, and divisional gang detectives. In these
24 assignments, I have encountered a wide variety of firearms and firearms
25 accessories, including assault rifles, and I have made numerous arrests for firearms
26 violations.
27
28

1 3. Pursuant to my current assignment, I received training from the Bureau
2 of Alcohol, Tobacco, Firearms and Explosives (BATFE) on illegal firearms
3 trafficking, firearms identification and tracing, undercover operations, hidden
4 compartment identification and recognition, assault weapons, and Federal Firearms
5 laws. I have also received informal training on the above- mentioned subjects from
6 more experienced investigators. I routinely review California Department of
7 Justice (DOJ) and BATFE publications related to firearm identification and
8 transactions. I have attended numerous gun shows and firearms trade expositions.
9 I routinely review Firearms Industry trade publications. I have spoken to hundreds
10 of persons engaged in the business of firearms sales. I have also been involved in
11 numerous investigations of illegally transferred firearms, possession of prohibited
12 weapons including machine guns, assault weapons, and short barrel shotguns and
13 rifles, as well as possession of firearms by prohibited persons. As a result of these
14 investigations, I have seized or participated in the seizure of hundreds of assault
15 rifles and numerous high capacity magazines. I am a court qualified firearms
16 expert and have testified on multiple occasions as such. I have also fired many
17 different firearms including various assault weapons and machine guns for training
18 and court testimony.

19 4. Gun violence is a significant problem in Los Angeles. The LAPD lacks a
20 central database of all firearms related statistics. The statistics set forth below are
21 accumulated by many different entities within the department including the Gun
22 Unit and Robbery Homicide division. Here are some statistics for the past several
23 years regarding gun-related crimes in Los Angeles:
24
25
26
27
28

Year	Total Number of Gunshot Victims
2013	1012
2014	994
2015	1119
2016	1180
2017 (as of 9/6/17)	718

Year	Total Number of "Shots Fired" Calls
2013	2198
2014	2134
2015	2419
2016	2628
2017	N/A

Year	Total Number of Firearms Related Arrests
2013	1225
2014	1153
2015	1265
2016	1509
2017	N/A

5. Not surprisingly given the above statistics, the number of weapons seized both city-wide, and by the gun unit, are high as well. Here are some statistics for the past five years regarding gun-related seizures:

Year	Total Number of Firearms Booked Citywide
2013	5130
2014	5529
2015	6151
2016	5908
2017 (as of 9/6/17)	4513

6. Statistics regarding assault weapons and machine guns (as define in the California Penal Code) are provided because these guns typically use large-capacity magazines. The LAPD does not keep statistics on the number of assault weapons and machine guns recovered citywide due to the expertise needed to determine whether a weapon is actually an assault weapon or a machine gun. The below statistics represent Assault Weapons / Machine Guns recovered by the Gun Unit only. Citywide numbers are likely higher.

Year	Number of Assault Rifles/Machine Guns recovered by the Gun Unit
2013	123
2014	113
2015	145
2016	89
2017	125

7. With respect to large-capacity magazines specifically, the statistics provided below represent only the seizure of large capacity magazines by the Gun Unit. As with assault rifles, the LAPD does not keep statistics on the number of large-capacity magazines recovered citywide.

Year	Number of Large-Capacity Magazines Recovered by the Gun Unit
2013	601
2014	392
2015	8826 ¹
2016	224
2017	551

8. It is my opinion, based on my training and experience, that assault rifles (as defined by California Penal Code sections 30510 and 30515) pose a greater danger to both police officers and the public than other unrestricted semi-automatic, centerfire rifles with detachable (non-fixed) magazines. What distinguishes Assault Rifles from unrestricted rifles (as described above) is the presence of one or more features enumerated in the California Penal Code including a pistol grip (including a forward pistol grip) or thumbhole stock, adjustable stock, or flash suppressor. These features when attached to a semi-automatic, centerfire rifle with a detachable magazine make that rifle more dangerous to police offices and the public due to an increase in the lethality of the rifle. The purpose of each of these features is to increase the control of the rifle that they are attached too. Increased control leads to the ability of the shooter to fire rounds faster and with more accuracy. Any modification to a firearm that allows a shooter to fire rounds faster with increased accuracy leads to greater potential lethality.

9. The most ubiquitous feature of assault weapons is the pistol grip or thumbhole stock. Modern military battle rifles are almost universally equipped with pistol grips. Modern military battlefield tactics rely on the ability of troops to send, rapidly and accurately, a large number of rounds down range towards enemy positions. Pistol grips and thumbhole stocks provide the combatant with more

¹ This was due to an abnormal seizure regarding a deceased individual at a condominium in the Pacific Palisades.

1 control of the rifle and thus more accuracy during rapid fire. Pistol grips and
2 thumbhole stocks also position the trigger finger relative to the trigger so that the
3 trigger press is in a straight line. This allows the shooter to not only be more
4 accurate but also increases the speed with which rounds can be fired. Pistol grips
5 and thumbhole stocks serve the same purpose when installed on civilian semi-
6 automatic rifles in that they increase the number and accuracy of rounds that can be
7 fired by any given shooter in a given amount of time.

8 10. Adjustable stocks also contribute to the control of the rifle in that they
9 allow the shooter to optimize the rifle to their arm length. This increases the
10 shooter's ability to rapidly send rounds down range with increased accuracy. By
11 collapsing the stock, the rifle becomes more concealable potentially allowing a
12 suspect to introduce the firearm into a vulnerable location such a school or
13 workplace with less fear of detection.

14 11. Flash suppressors also contribute to the potential lethality of a rifle.
15 Flash suppressors function to reduce the "flash signature" in the shooter's field of
16 vision in low light conditions. By reducing the effect of the muzzle flash on the
17 shooter's night vision, the shooter can get back on target quicker. The ability to
18 acquire one's sight picture faster allows the shooter to more rapidly deliver rounds
19 to the target with greater accuracy. Many flash suppressors on the market are
20 hybrid designs meant not only to reduce the flash signature of the rifle but to limit
21 barrel rise which increases accuracy.

22 12. By definition, assault rifles are capable of accepting a detachable (non-
23 fixed) magazine. These magazines can hold as many as 100 rounds. Large
24 capacity magazines allow the shooter to fire more rounds at their target(s) before
25 the need to stop and reload. The use of detachable large capacity magazines in
26 conjunction with any semi-automatic or fully automatic rifle makes that rifle more
27 lethal.
28

1 13. Adding any of the features described above further increases the ability
2 of the shooter to accurately and rapidly deliver rounds to the target, increasing the
3 potential lethality of the firearm beyond that presented by a featureless rifle. There
4 is a direct correlation between a shooter's ability to inflict more casualties on
5 targeted persons and the number of rounds immediately available to a shooter to
6 more rapidly and accurately deliver those rounds on target. This has been
7 illustrated in various mass-shootings in and around the City of Los Angeles over
8 the past twenty years.

9 14. For example, in one of the most brazen crimes ever committed, on
10 February 28, 1997, two heavily armed men robbed a Bank of America in North
11 Hollywood. According to reports that I have read, the bank robbers emptied more
12 than one thousand rounds of ammunition using fully automatic pistol grip equipped
13 machine guns with high-capacity drum magazines (holding 75 to 100 rounds), an
14 AR-15 assault rifle equipped with a pistol grip and converted to fire automatically
15 with two high-capacity magazines (holding 100 rounds each), a semi-automatic
16 HK-91 rifle equipped with a pistol grip and several 30-round high-capacity
17 magazines, and armor-piercing bullets. The LAPD officers responding to the scene
18 were outgunned and injured as a result of this incident. Indeed, twelve police
19 officers and eight civilians were injured.

20 15. On August 10, 1999, a white supremacist fired shots into the lobby of the
21 North Valley Jewish Community Center in Granada Hills. According to reports I
22 have read, the shooter was armed with a fully-automatic Uzi machine gun, a semi-
23 automatic pistol, and large capacity magazines. Three children, a teenage
24 counselor, and an office worker were injured.

25 16. On June 7, 2013, a shooter opened fire in and around the campus of Santa
26 Monica College. According to reports that I have read, the shooter was armed with
27 a semi-automatic rifle (similar in type to an AR-15) equipped with a pistol grip,
28

1 1,300 rounds of ammunition, and forty 30-round magazines. Five people were
2 killed and four people were injured.

3 17. On November 1, 2013, a gunman opened fire at the Los Angeles
4 International Airport. According to reports that I have read, the shooter used a
5 Smith & Wesson M&P15 semi-automatic rifle equipped with a pistol grip and
6 loaded with a detachable 30-round large-capacity magazine. The shooter also had
7 five additional 30-round large-capacity magazines and hundreds of rounds of
8 ammunition in his carrying bag. One TSA agent was killed and several other
9 people were injured.

10 18. On December 2, 2015, a married couple targeted a San Bernardino
11 County Department of Public Health event and Christmas party, killing fourteen
12 people and wounding twenty-two others. According to reports that I have read, the
13 shooters were armed with semi-automatic pistols, a Smith & Wesson M&P15 rifle
14 modified to make it fully automatic and equipped with a pistol grip and detachable
15 large capacity magazine, a DPMS A-15 rifle with a pistol grip that was modified to
16 accept a detachable large-capacity magazine, and at least four large-capacity
17 magazines.

18 19. It is my opinion, based on my training and experience, that the above-
19 described attacks would have been less deadly had the shooters not been armed
20 with assault rifles or assault rifles converted to machine guns.

21 20. There are numerous devices on the market that when installed on a semi-
22 automatic rifle, increase the rifle's rate of fire to that of some machine guns. These
23 devices are easily installed on the rifle without special tools or training. Although
24 these "multiburst trigger activators" are unlawful in the state of California, they are
25 widely available in neighboring states and on the internet. The LAPD Gun Unit has
26 encountered an increasing number of these devices in the last several years.
27 Combining a multiburst trigger activator with a rifle equipped with the above-
28

1 described features increases the lethality of the firearm many fold. This has been
2 illustrated by a mass-shooting in the City of Las Vegas on October 1, 2017.

3 21. According to reports that I have read, a single shooter firing from a 32nd
4 floor hotel window located some distance from a crowded outdoor concert venue
5 was able to shoot to death 58 concert goers and injuring hundreds of others. This
6 was the deadliest mass shooting in modern United States history. Reports about
7 and photos of the gunman's weapons that I have viewed show that he was armed
8 with numerous semi-automatic, centerfire rifles with detachable magazines and
9 equipped with pistol grips. These firearms would meet the definition of an assault
10 rifle if they were possessed within California. It is highly unlikely that this shooter
11 could have inflicted as many casualties as he was able had his rifles not been
12 equipped with features that were designed to help the shooter control his firearms
13 with improved accuracy during rapid fire.

14 22. I have been involved in the seizure of assault weapons that have been
15 converted into machine guns. This process is as simple as "dropping in" a few
16 parts to a more involved process of drilling additional holes in the receiver of the
17 rifle. Once modified in this manner, rifles equipped with the above-described
18 features are indistinguishable from the battlefield rifles used by the world's military
19 forces.

20 23. There is no evidence that assault rifles are "commonly" used for self -
21 defense. While any firearm including an assault rifle could be used effectively in a
22 self-defense scenario, handguns and shotguns are the more common and preferred
23 choice. Legally sanctioned use of force including deadly force is commonly
24 understood to be defense against an immediate and proximate threat of physical
25 harm to one's self or others. In other words, the threat needs to be imminent and to
26 some degree up close and personal. This proximity requirement makes a rifle an
27 inappropriate and unnecessary choice of weapon. The evidence cited in articles and
28 by internet bloggers to support the assertion that assault rifles are "commonly" used

1 by the public to defend themselves is mostly based on anecdotal evidence as there
2 is no uniformed collection of data on the subject. Many of the anecdotes cited by
3 proponents for the use of assault rifles as defensive weapons involve the mere
4 pointing of the rifle at the suspect who then fled with no shots fired. Pointing a
5 handgun at a suspect would have the same effect. Other anecdotes involve assault
6 rifles used to fend off unarmed suspects. Again, a handgun or shotgun would have
7 the same effect and of course there are numerous non-lethal options available. In
8 many of these scenarios cited the use of deadly force would not have been legally
9 sanctioned. The purpose of deploying a rifle as opposed to a handgun should be
10 based on the fact that the target is beyond the reasonable effective range of a
11 handgun. Other considerations are a need to defeat body armor, fortified
12 concealment, a position of advantage (high ground), or a suspect armed with
13 superior fire power such as a rifle. These are the criteria used by the LAPD when
14 deciding to deploy a rifle. It is highly unlikely that citizens would face a situation
15 where the threat is beyond the effective range of a handgun and certainly not with
16 any great frequency. It is even less likely that the law would view such a distant
17 perceived threat as justifying a use of force at all much less a use of lethal force
18 delivered via a rifle. I do not believe, based on my training and experience, that
19 there are frequent occasions when a member of the public would face threat by an
20 armed suspect wearing body armor or concealed behind a barrier that would defeat
21 handgun ammunition. Absent these factors a handgun, shotgun or non-lethal
22 options should suffice in dealing with the vast majority of self-defense scenarios
23 where force is legally justified.

24
25 I declare under penalty of perjury that the foregoing is true and correct.

26
27 Executed on October 25, 2018 at Los Angeles, California.

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Michael Mersereau
MICHAEL MERSEREAU

EXHIBIT 9
TO THE DECLARATION OF JOHN D. ECHEVERRIA

JUNE 2011



Violence Policy Center



The Militarization of the U.S. Civilian Firearms Market

WWW.VPC.ORG

Def. Exhibit 32
Page 001272

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The Violence Policy Center (VPC) is a national nonprofit educational organization that conducts research and public education on violence in America and provides information and analysis to policymakers, journalists, advocates, and the general public.

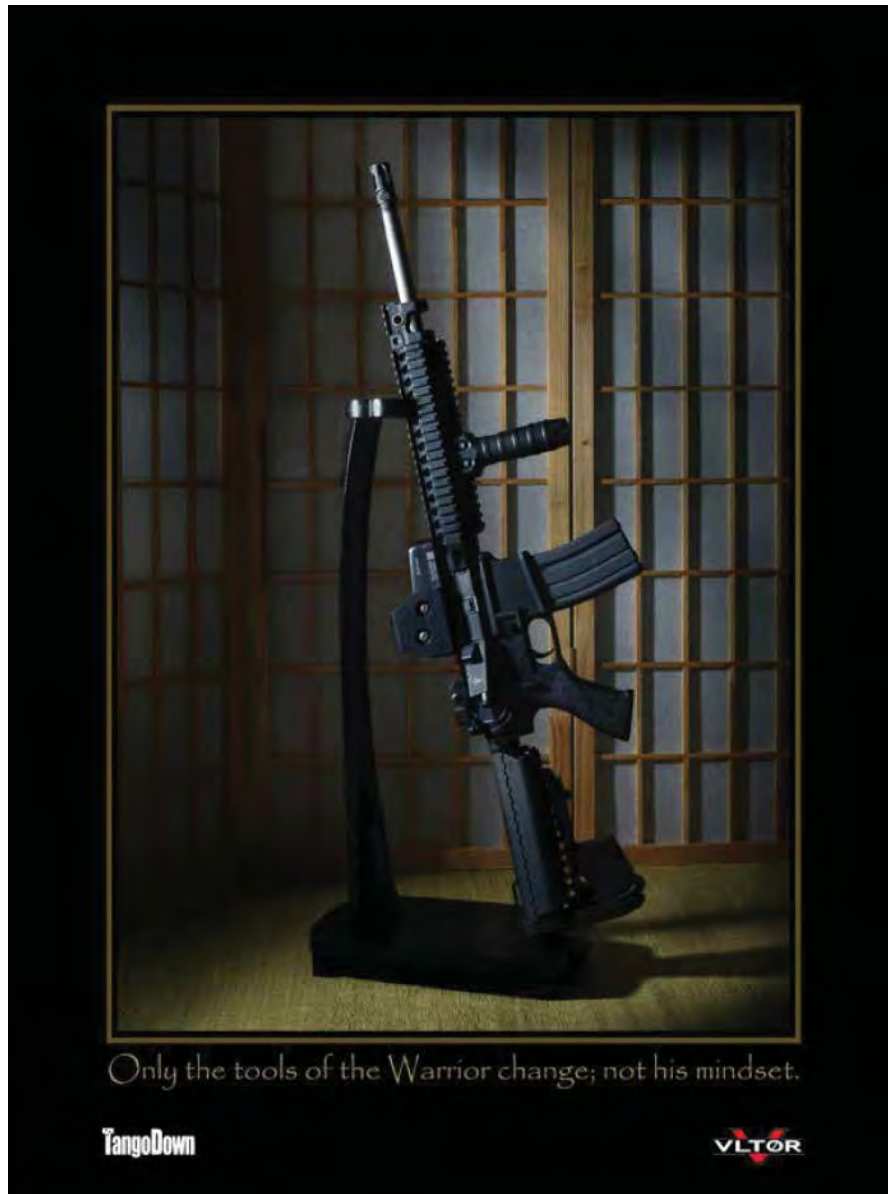
This study was funded in part with the support of the David Bohnett Foundation and The Joyce Foundation.

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TABLE OF CONTENTS

Key Findings	1
"Militarization"—What is It?	2
Why Has the Gun Industry Militarized Its Market?	7
Gun Industry Problem: Long-Term Decline	7
Gun Industry Solution: Generating Demand with New and More Lethal Designs	9
Appealing to the Soldier Within	11
How Has the Gun Industry Militarized Its Market?	14
High-Capacity Handguns	14
Handgun Militarization—High-Capacity Semiautomatic Pistols	15
Handgun Militarization—High-Capacity "Anti-Terrorist" Vest-Busting Pistols	18
Assault Rifles and Assault Pistols	21
Imports—AK-47 Variants	23
Domestic Production—AR-15 Variants of the M-16	25
The 1994 Assault Weapons "Ban" and the Rise of Bushmaster	27
Assault Pistols—UZI, Ingram, Intratec, and More	28
The Assault Weapons Hype Market	29
The 1980s Explosion	29
The Y2K Exploitation	30
Continuing Incitement	32
The National Shooting Sports Foundation's Rebranding Campaign	34
50 Caliber Anti-Armor Sniper Rifles	36
Taxpayers Subsidize the Gun Industry	38
The Result: Militarized Firearms Define the U.S. Civilian Firearms Market	40
The Consequences of Militarization	41
Increasing Attacks on Law Enforcement with Assault Weapons	41
Trafficking of Military-Style Weapons from the United States	42
What Can Be Done?	43
Endnotes	44



Firearms accessories manufacturer TangoDown claims on its website that it "...exists for one reason. To design, develop and manufacture the highest quality products for the warriors of the United States Armed Forces." However, many of its products—like the poster reproduced above—and its advertising are aimed at the militarized civilian market.

www.tangodown.com/td_pages/p_about.html



Sgt. Brandon Paudert (left) and Officer Bill Evans (right) of the West Memphis (Arkansas) Police Department were shot to death May 20, 2010, following a traffic stop. The shooter, 16-year-old Joseph Kane, was armed with an AK-47 semiautomatic assault rifle. Kane and his father, Jerry, were killed in a gunfight with police in a nearby Walmart parking lot. The Kanes were reportedly members of the anti-government Sovereign Citizens Movement.

"Brandon and Bill had no chance against an AK-47," [West Memphis Police Chief Bob] Paudert said. "They were completely outgunned. We are dealing with people who rant and rave about killing. They want government officials dead. We had a 16-year-old better armed than the police."

"West Memphis police chief says officers' pistols were no match for heavily armed teenager,"
The Commercial Appeal (Memphis, TN), May 25, 2010

"Sovereign Citizens Movement members leave two police officers dead in shootout,"
NBC News Transcripts, July 5, 2010

KEY FINDINGS

The civilian firearms industry in the United States has been in decline for several decades. Although the industry has enjoyed periods of temporary resurgence, usually primed by “fear marketing”—encouraging people to buy guns by stoking fear of crime, terrorism, violent immigrants, or government control, for example—the long-term trend for the manufacturers of guns for civilians has been one of steady decline.

Selling militarized firearms to civilians—i.e., weapons in the military inventory or weapons based on military designs—has been at the point of the industry’s civilian design and marketing strategy since the 1980s. Today, militarized weapons—semiautomatic assault rifles, 50 caliber anti-armor sniper rifles, and armor-piercing handguns—define the U.S. civilian gun market and are far and away the “weapons of choice” of the traffickers supplying violent drug organizations in Mexico.

The flood of militarized weapons exemplifies the firearms industry’s strategy of marketing enhanced lethality, or killing power, to stimulate sales. The resulting widespread increase in killing power is reflected in the toll of gun death and injury in the United States—a relentless count that every year takes 10 times the number of lives as the terrorist attacks of September 11, 2001.¹

Militarization has baleful consequences beyond the “routine” toll of murders, suicides, and unintentional deaths. Military-style weapons are a favored tool of organized criminals such as gangs and drug traffickers, and violent extremists. Semiautomatic assault weapons—especially inexpensive AK-47 type imports—are increasingly used in attacks against law enforcement officers in the United States.

The pernicious effects of the militarized U.S. civilian gun market extend well beyond the borders of the United States. Lax regulation and easy access to these relatively inexpensive military-style weapons has resulted in their being smuggled on a large scale from the U.S. to criminals throughout the Western Hemisphere—including Mexico, Canada, Central America, the Caribbean, and parts of South America—as well as to points as far away as Afghanistan, the Balkans, and Africa.

This study surveys the rise of the militarized civilian gun market, examines its impact on public health, safety, and crime in the United States and the world, and refutes the gun lobby’s recent attempt to “rebrand” semiautomatic assault weapons as “modern sporting rifles.”

1 | VIOLENCE POLICY CENTER THE MILITARIZATION OF THE U.S. CIVILIAN FIREARMS MARKET

"MILITARIZATION" — WHAT IS IT?

The verb "militarize" means "to give a military character to" something.² The gun industry has given a "military character" to guns in the U.S. civilian market by—

- **Selling on the civilian market guns that are identical to guns used by the armed forces of the United States and other countries.** These firearms include such sophisticated weapons as the Barrett 50 caliber anti-armor sniper rifle and the FN Herstal Five-seveN 5.7mm pistol.



The Barrett Firearms 50 caliber anti-armor sniper rifle used in combat (above) is sold without meaningful regulation in the U.S. civilian gun market.



**BUY ANY
FN FIVE-SEVEN
AND YOUR FIRST
200 SHOTS ARE
FREE!**

Purchase any new
FN Five-seveN pistol before
March 31, 2008 and receive
200 rounds of FN 5.7x28mm
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(a \$90.00 value)
ABSOLUTELY FREE!

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The FN Five-seveN USG pistol offers carbine ballistic performance in a handgun. Today FN provides 70% of the small arms used by U.S. Military Forces around the globe. FN is the name you can trust. **JUST LIKE THEY DO.**

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THE FN FIVE-SEVEN USG IS AVAILABLE IN 5.7X28MM
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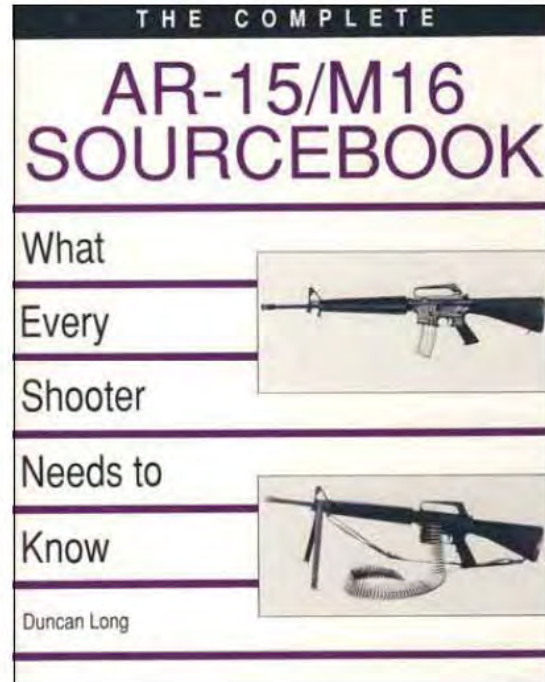
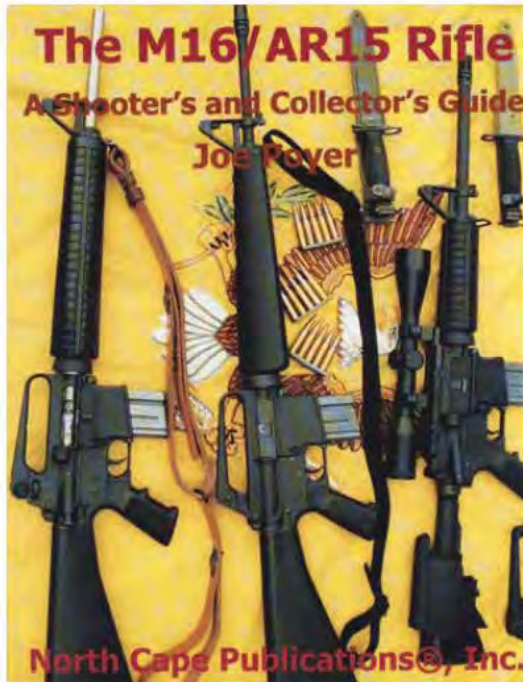
Every FN Five-seveN features:

- Hammer-forged chrome-lined barrel
- Polymer frame and slide cover
- Integrated accessory rail
- Ambidextrous safety levers
- Three 20-round polymer magazines and a hard case
(Limited-capacity magazines supplied when required by law.)

FNH USA • P.O. BOX 697 • McLEAN, VA 22101 USA • (703) 288-1292 • © FNH USA, LLC, a subsidiary of FN Herstal, S.A. 2007.

This ad from *Guns & Ammo* (March 2008) explicitly plays on the military's use of FN's Five-seveN 5.7mm armor-piercing handgun.

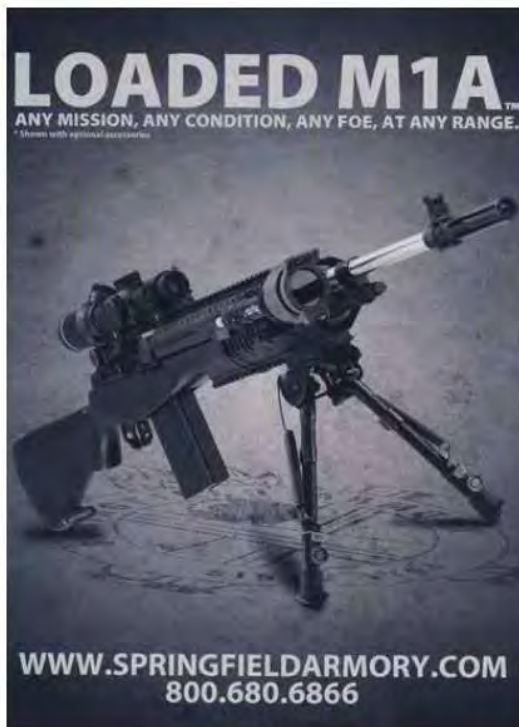
- **Designing and manufacturing, or importing, civilian variants of military firearms that would otherwise be illegal to sell on the civilian market.** These are principally semiautomatic versions of military assault weapons. (Military assault rifles are capable of fully automatic fire. They are thus barred, as “machine guns,” from sale to civilians in the United States.) They include many variants of the AR-15 (the civilian version of the U.S. military M-16 assault rifle) and numerous semiautomatic versions of the Kalashnikov assault rifle, popularly known as the AK-47.



The covers of these books, the left published in 2000, the right in 1992, graphically illustrate the equivalence gun enthusiasts see between the military M-16 and the civilian AR-15.

- **Heavily promoting military-style products through images, slogans, print, video, and other electronic media that link the features, capabilities, and uses of military weapons with firearms available on the civilian market.** In addition to this direct product promotion, the industry relies heavily on suggestive “patriotic” and “heroic” imagery—both historic and contemporary—to identify ownership of military-style weapons with grand themes of “patriotism” and “homeland defense.”

In short, the gun industry designs, manufactures, imports, and sells firearms in the civilian market that are to all intents and purposes the same as military arms. It then bombards its target market with the message that civilian consumers—just like real soldiers—can easily and legally own the firepower of militarized weapons.



These ads from the NRA's *American Rifleman* magazine (May 2010) are typical of how the gun industry implicitly evokes militaristic themes in its marketing.



Colt's Manufacturing's 2010 catalog (cover at top) *American Legends* touches all the bases. Internal pages, clockwise from upper left, glorify: Teddy Roosevelt and his Rough Riders; World War I hero Sgt. Alvin York; Colt's CEO Marine Lt. Gen. William M. Keys; and, U.S. Navy deserter and 1930s bank robber John Dillinger. The brochure's mawkish tone is typical of gun industry advertising and gun lobby propaganda.

WHY HAS THE GUN INDUSTRY MILITARIZED ITS MARKET?

In spite of the gauzy imagery of its advertising, the gun industry's militarization is simply a business strategy aimed at survival: boosting sales and improving the bottom line. The hard commercial fact is that military-style weapons sell in an increasingly narrowly focused civilian gun market. True sporting guns do not.

Here, for example, is an informed industry assessment of the importance of assault (often euphemistically called "tactical") weapons to the gun industry from October 2008:

If there is an area of good news, it's still the tactical segment. In the past week, storefront owners and catalog retailers are unequivocally saying that, with the exception of the tactical categories—from AR-style rifles to the polymer pistols increasingly found in the holsters of law enforcement across the country, sales are slow.³

Here is another from an article titled, "Industry Hanging Onto [sic] A Single Category"—

The net of all the numbers is that if you're a company with a strong line of high-capacity pistols and AR-style rifles, you're doing land office business. If you're heavily dependent on hunting, you are hurting.⁴

Gun Industry Problem: Long-Term Decline. The civilian firearms industry in the United States has been in decline for several decades. Although it has from time to time enjoyed brief peaks in sales, it has been essentially stagnant. For example, demand for firearms apparently increased beginning in 2008 because of fears that "high unemployment would lead to an increase in crime" and the Obama administration would "clamp down" on gun ownership by regulating assault weapons. But demand fell back as these fears waned.⁵ A writer for the online industry publication *Shooting Wire* noted in September 2009:

...research tells me what everyone already knows: gun sales are slowing again. It seems the "Barack Boom" has started to go bust. No real reason, other than maybe the fact that everyone already has all the AR-style rifles they can shoot, store or afford, but there is an undeniable slowdown....⁶

In spite of such occasional anomalies, fundamental long-term trends have worked against the gun industry. The nation's largest firearms manufacturer, Freedom Group, Inc., included the following candid disclosure in a document filed recently with the U.S. Securities and Exchange Commission (SEC):

We believe that a number of trends that currently exist may affect the hunting and shooting sports market:

- the development of rural property in many locations has curtailed or eliminated access to private and public lands previously available for hunting;
- environmental issues, such as concern about lead in the environment; and
- decreases in consumer confidence and levels of consumer discretionary spending.

These trends may have a material adverse effect on our business by impairing industry sales of firearms, ammunition and other shooting-related products.⁷

Other trends include aging consumers—the percent of the U.S. population aged 65 and older has grown from 4.1 percent in 1900 to 12.4 percent in 2000.⁸ Gun owners are older and young people are less likely to buy firearms. *The Christian Science Monitor* reported in 2002 that some in the gun industry itself explained that the “fact that the average age of gun owners continues to increase is...more than a statistical quirk tied to aging baby boomers. Rather it’s a sign that younger generations see guns differently.”⁹ The growing proportion of immigrants in U.S. society also has an impact: “America’s increasing immigrant population has less of a tradition with firearms....”¹⁰



Electronic entertainment like Nintendo’s Super Mario series of video games threatens the gun industry’s crucial “youth market.”

Recent studies have shown that alternative recreation has drastically affected so-called “nature recreation”—camping, hunting, fishing, and park visitation—by all Americans. According to these studies, “Most reliable long-term per capita visitation measures of nature recreation peaked between 1981 and 1991. They’ve declined about 1.2 percent per year since then, and have declined a total of between 18 percent and 25 percent.”¹¹ The authors state the cause is “a social change of values characterized by our increasing pursuit of electronic media entertainment.”¹² According to the Entertainment Software Association, U.S. sales of computer and video games grew from \$2.6 billion in 1996 to “well over \$7.0 billion” in 2007.¹³

As a result, the gun industry has failed to keep up with population growth. Between 1980 and 2000 the U.S. population grew from 226,545,805 to 281,421,906—a 24 percent increase.¹⁴ Over the same period, total domestic small arms production fell from 5,645,117 to 3,763,345—a 33 percent decrease.¹⁵ As America has gotten bigger, the gun industry has gotten smaller.

Gun Industry Solution: Generating Demand with New and More Lethal Designs. In order to entice new gun owners into its shrinking pool of customers—and to motivate gun owners already in the pool to buy more guns—the gun industry seeks to create innovative products that offer new features and appeal to consumer trends. The industry itself deliberately creates these consumer trends.

An example lies in the phenomena of: (1) the gun lobby’s nationwide campaign, led by the National Rifle Association (NRA), to change state laws to allow the concealed carry of firearms; and, (2) the gun industry’s parallel aggressive marketing of concealable, high-powered handguns. In a 1996 interview with *The Wall Street Journal*, the NRA’s then-chief lobbyist, Tanya Metaksa, claimed credit for generating new gun sales with the concealed carry campaign: “The gun industry should send me a basket of fruit—our efforts have created a new market.”¹⁶

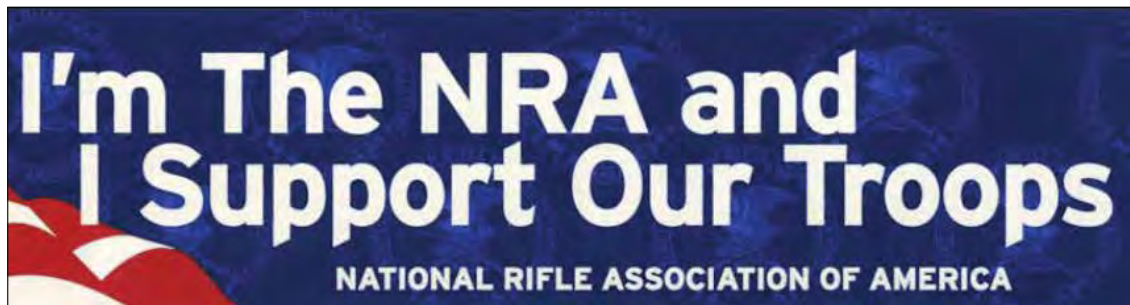


Colt's Manufacturing evokes the militaristic image of Air Force General Curtis LeMay—“Father of the Strategic Air Command”—to promote its 01970 CY “carry model” semiautomatic pistol.

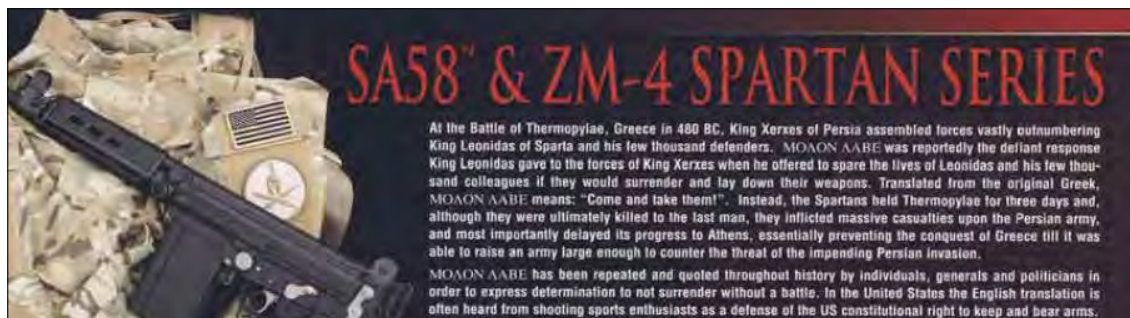
Colt American Legends catalog
(2010)

A Freedom Group filing with the SEC contains a more recent description of the process: “We have also shifted our business from a manufacturing-based ‘push system’ to a customer-focused ‘pull system,’ *driven by our Chief Sales and Marketing Officers.*” [emphasis added]¹⁷ Translated into plain English from the language of financial filings, this admission means that the conglomerate’s marketing technique is to *generate* demand (“pull”).

The constant generation of “pull” in niche markets is vital to the industry’s survival. If a manufacturer’s new product generates sufficient “pull,” or product demand, imitation by other manufacturers and proliferation of the design follows swiftly.



NRA bumper sticker typical of gun lobby’s pseudo-patriotic propaganda.



DSA, Inc. promoted its “Spartan Series” semiautomatic assault rifles with the Greek phrase “*Molon Labe*” (“Come and take them”) supposedly uttered by Spartan warriors in 480 BC at the Battle of Thermopylae. “In the United States the English translation is often heard from shooting sports enthusiasts as a defense of the U.S. constitutional right to keep and bear arms,” the company’s brochure states.

Appealing to the Soldier Within. A marketing technique central to the gun industry's militarization campaign is appealing to the soldier within potential buyers who are drawn for emotional—or more sinister practical—reasons to military weaponry.



FN Herstal USA's 2010 catalog touts the SCAR 16S, "the semi-auto only version of the U.S. Special Operations Command's newest service rifle."

Here, for example, is an industry newsletter's description of the appeal of an assault rifle recently introduced by FN Herstal—the FNAR—by reference to a well-known military weapon, the Browning Automatic Rifle (BAR):

Even as many in the firearms business worry about the potential for another assault on assault rifles...there's yet another entry into the black rifle marketplace.

FNH USA has announced the availability of their new FNAR 7.62x51mm semiautomatic rifle. If [sic] looks something like a tuner-version of the venerable BAR, but there's probably some reason for that resemblance. FNH, after all, owns Browning—and the Browning Automatic Rifle carries a lot of mystique with law enforcement and military folks.¹⁸



"Descending from the legendary Browning Automatic Rifle (BAR), the FNAR puts autoloading speed and bolt-action accuracy into one powerful package."

FNUSA description of its FNAR civilian semiautomatic assault rifle,
www.fnhusa.com/le/products/firearms/group.asp?gid=FNG022&cid=FNC01



The BAR was a favorite of U.S. Marines in World War II—and of a notorious 1930s outlaw, serial cop-killer Clyde Barrow.

The gun industry's embrace of militarization can be seen in the chart below. Eleven of the top 15 gunmakers manufacture some type of assault weapon.

ELEVEN OF THE TOP 15 GUN MANUFACTURERS MARKET ASSAULT WEAPONS¹⁹

Rank	Manufacturer	Assault Weapons?	Make or Type
1	Sturm, Ruger	Yes	Mini-14 and SR-556 assault rifles
2	Smith & Wesson	Yes	M&P 15 assault rifle
3	Remington	Yes	R-15 assault rifle
4	Maverick/Mossberg	Yes	Tactical .22 assault rifle and assorted assault shotguns
5	Marlin	No	
6	Sig Sauer	Yes	Assorted assault rifles
7	Kel-Tec	Yes	Assorted assault rifles
8	Savage	Yes	110 BA assault rifle
9	H&R 1871	No	
10	Beemiller	Yes	Hi-Point Carbine assault rifle
11	Henry Repeating Arms	No	
12	DPMS	Yes	Assorted assault rifles
13	Beretta, USA	Yes	Storm assault rifles
14	Bushmaster	Yes	Assorted assault weapons
15	Glock	No	

HOW HAS THE GUN INDUSTRY MILITARIZED ITS MARKET?

The gun industry has militarized the civilian market with three major types of firearms: high-capacity handguns, assault rifles and pistols, and sniper rifles.

HIGH-CAPACITY HANDGUNS

Handguns are a basic weapon of the U.S. military. Until 1911, the U.S. armed forces historically favored revolvers. In that year the U.S. Army adopted a semiautomatic pistol for the first time, the iconic Colt M1911 in .45ACP (designated the M1911A1 after modifications were made in 1926).²⁰



Colt Model 1911A1

The Colt pistol remained the military's standard sidearm until 1989. Although various models of the Colt pistol were offered in the civilian market, American consumers favored revolvers, which continued to dominate the market until 1989.

In that year, Beretta, U.S.A. Corporation—a subsidiary of an Italian gun manufacturer—won final approval of a contract to replace the venerable M1911A1 with its 9mm semiautomatic pistol. In short order, the U.S. civilian handgun market was revolutionized and militarized, in large part because of a deliberate, well-documented marketing strategy by Beretta's management.

Handgun Militarization—High-Capacity Semiautomatic Pistols. Beretta's pistol, designated the M-9, entered service in 1990 as the military's primary sidearm.²¹ But Beretta's top executive told the *Baltimore Sun* in 1993 that the military contract was simply "part of a carefully planned strategy dating back to 1980"—

The plan was to win the military contract and use it to make Beretta a household name in the United States in hopes of tapping into the larger law-enforcement and commercial markets. That's why, [Robert] Bonaventure [head of Beretta U.S.A. Corp.] said, the company has been selling pistols to the military for about \$225 each—close to production cost....The biggest market—about twice the size of the police and military business combined—is the commercial market....²²



Beretta's top U.S. executive told the *Baltimore Sun* in 1993 that the company's strategy was to use the cachet of military sales to reach the larger civilian handgun market. The Beretta M9 also became a favorite of street gangs and drug dealers.



Beretta advertisement from October 1985 issue of *Guns & Ammo* exemplifies the Italian arms maker's use of military cachet in the civilian gun market.

Austrian entrepreneur Gaston Glock had a similar objective when he founded his handgun manufacturing company, won an Austrian army competition in 1982, opened a U.S. subsidiary, and then went after the American law enforcement market. "In marketing terms, we assumed that, by pursuing the law enforcement market, we would then receive the benefits of 'after sales' in the commercial market," Glock told *Advertising Age* in 1995.²³



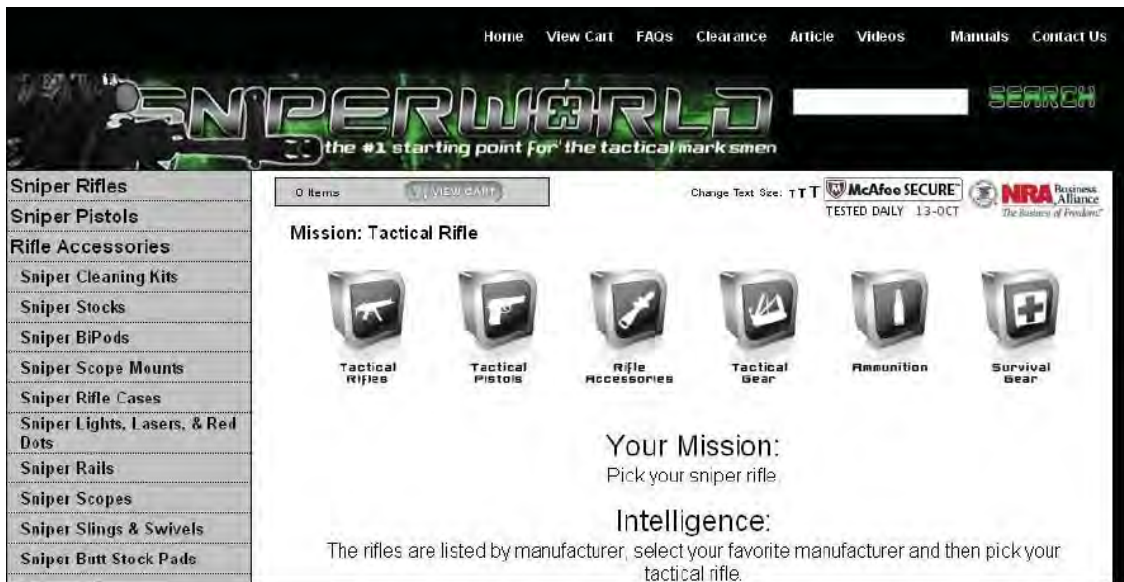
Austrian gun manufacturer Glock promotes its firearms by constantly linking them to law enforcement use, a form of domestic militarism.

Boosted by these companies' sophisticated marketing strategies, and an adulatory gun press, high-capacity 9mm semiautomatic pistols reinvigorated the industry in the 1980s. Known as "Wonder Nines," 9mm semiautomatic pistols drove the formerly dominant revolvers out of the handgun market and created a lucrative boom for the industry. The military-style semiautomatic pistols proliferated.

The switch from revolvers to high-capacity pistols dramatically enhanced handgun lethality. As *Jane's Infantry Weapons* observed in the early 1980s, revolvers are "bulky," "generally limited to six rounds," take a "long time to reload," and produce low muzzle velocity. Pistols "can be made flat and unobtrusive," "take up to 13 rounds or more," feature a "simple to replace magazine," and high muzzle velocity.²⁴



Gun industry promotional materials, like this DVD distributed at an NRA convention by German gunmaker Walther, frequently emphasize such militaristic terms as “mission,” “special operations,” and “tactical.”



Sniperworld (above) sells military-style firearms through the Internet. Here it assigns customers the “mission” of picking their sniper rifle. The dealer displays its membership in the NRA Business Alliance: “The Business of Freedom.”

Handgun Militarization—High-Capacity “Anti-Terrorist” Vest-Busting Pistols. In the scramble for market, the gun industry has introduced a plethora of high-capacity, high-caliber semiautomatic pistol designs since the mid-1980s. But no product better captures the gun industry’s relentless militarization than the Belgian company FN Herstal’s introduction into the civilian market of a pistol and cartridge specifically designed to defeat body armor—the FN Model Five-seveN.

FN Herstal originally created the 5.7x28mm cartridge as the ammunition for a new submachine gun, the P90. The gun and round combination was developed in response to NATO’s request for design of a weapon that would be effective against body armor—ubiquitous on the modern battlefield. (The P90 is the prime example of a new generation of “high-tech” assault rifles, and a civilian version, the PS90, has become popular in the United States.) In short order, the company also designed a handgun that would chamber the innovative armor-piercing submachine round.

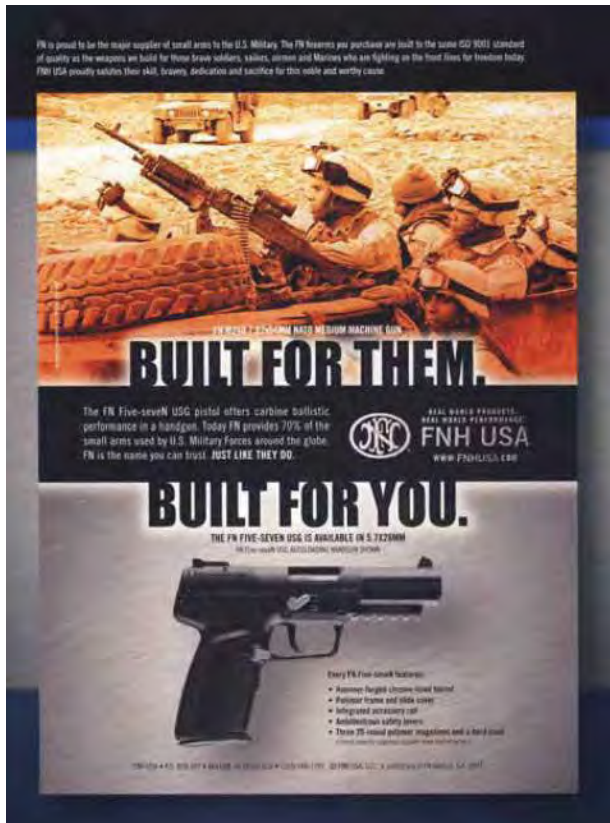


“Just like the Five-seveN handgun, the P90 submachine gun was developed around the 5.7x28mm ammunition to meet the Armies [sic] requirement in terms of efficiency.”

FN Herstal website

FN clearly understood that it was releasing a lethal genie. A spokesman for the company told the *Sunday Times* in 1996 that the pistol was “too potent” for normal police duties and was designed for anti-terrorist and hostage rescue operations.²⁵ The NRA’s *American Rifleman* claimed in 1999 that: “Law enforcement and military markets are the target groups of FN’s new FiveseveN pistol,” and told its readers, “Don’t expect to see this cartridge sold over the counter in the United States. In this incarnation, it is strictly a law enforcement or military round.”²⁶ In 2000, *American Handgunner* magazine assured the public, “For reasons that will become obvious, neither the gun nor the ammunition will ever be sold to civilians or even to individual officers.”²⁷

In fact, this handgun, described as being for anti-terrorist and hostage rescue operations with its law enforcement and military round were, and are, freely sold to civilians. FN was simply hyping its new product with widespread publicity in the gun press about “restricted” sales to military and police, and then—having whetted the gun buying public’s appetite—moved into the much bigger and more profitable civilian market. The Five-seveN is one of the leading firearms smuggled to Mexico from the U.S. civilian gun market.

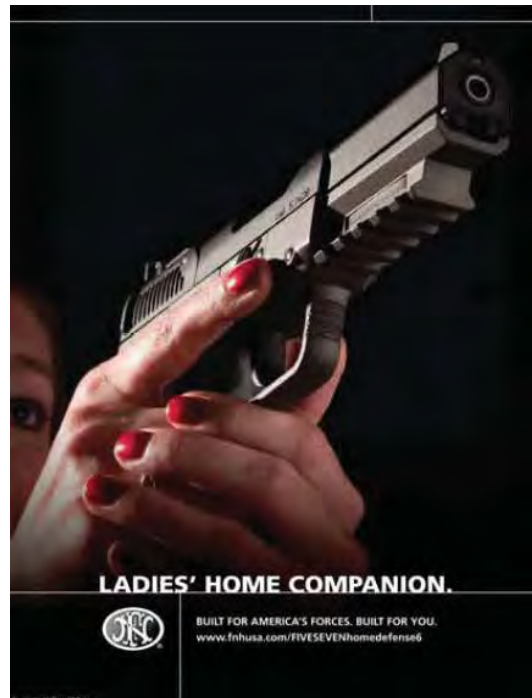


FN has heavily promoted its armor-piercing handgun in the U.S. civilian market. FN emphasizes its military cachet: “Today FN provides 70% of the small arms used by U.S. Military Forces around the globe. FN is the name you can trust. JUST LIKE THEY DO.” [Capitals in original.]

FNH USA 2008 catalog



U.S. Army Major Nidal Malik Hasan, left, used an FN Five-seveN 5.7mm semiautomatic pistol at Ft. Hood, Texas, on November 5, 2009. The major allegedly shot to death 13 people and wounded 32 others. He awaits trial in an Army court martial.



Although aimed at women, this ad's text promotes FN's military connection: "Built for America's Forces. Built for You."

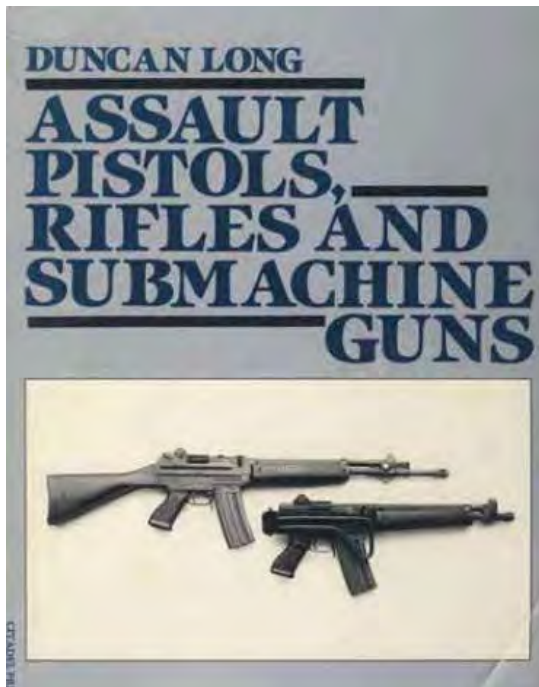
ASSAULT RIFLES AND ASSAULT PISTOLS

In the mid-1980s, the industry found another niche market—semiautomatic assault weapons.

Semiautomatic assault weapons are civilian versions of automatic military assault rifles (like the AK-47, the M-16, and FN's high-tech P-90) and automatic military assault pistols (like the UZI).²⁸

The military weapons “look” the same as the civilian weapons because they are functionally virtually identical. They differ only in one feature: military assault rifles are “machine guns.” A machine gun fires continuously as long as its trigger is held back—until it runs out of ammunition. Civilian assault rifles are *semi*-automatic weapons. The trigger of a semiautomatic weapon must be pulled back separately for each round fired.

Because federal law has banned the sale of new machine guns to civilians since 1986,²⁹ and heavily regulates sales to civilians of pre-1986 machine guns, there is virtually no civilian market for military assault weapons. The gun industry introduced semiautomatic versions of these deadly military assault weapons in order to create and exploit civilian markets.



The next problem arises if you make a semiauto-only model of one of these selective-fire rifles. According to the purists, an assault rifle has to be selective fire. Yet, if you think about it, it's a little hard to accept the idea that firearms with extended magazines, pistol grip stock, etc., cease to be assault rifles by changing a bit of metal.

In his 1986 book pro-gun author Duncan Long dismissed in the quote above the suggestion that semiautomatic civilian assault rifles were different in any substantial way from their military counterparts. The gun lobby has spent three decades trying to “rebrand” civilian assault rifles as mere sporting guns.

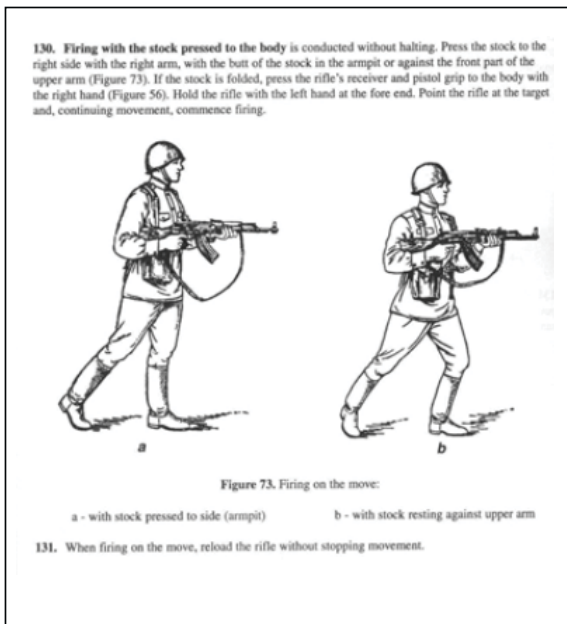
The world's armies developed assault weapons to meet specific combat needs. All assault weapons—military and civilian alike—incorporate specific features that were designed for laying down a high volume of fire over a wide killing zone. This is sometimes known as “hosing down” an area. Civilian assault weapons feature the specific military design features that make spray-firing easy and distinguish assault weapons from traditional sporting firearms.

The most important of these design features are—

- High-capacity detachable ammunition magazines that hold as many as 75 rounds of ammunition.
- A rear pistol grip (handle), including so-called “thumbhole stocks” and magazines that function like pistol grips.
- A forward grip or barrel shroud. Forward grips (located under the barrel or the forward stock) give a shooter greater control over a weapon during firing.

A gun industry observer summed up the design in September 2009:

From the minute you get your first modern, AR-style rifle, the first thing that you notice is the fact that it truly is one of the most ergonomic long guns you'll ever put to your shoulder. Makes sense, it was designed to take young men, many of whom had never fired a gun of any sort before, and quickly make them capable of running the rifle—effectively—in the most extreme duress, armed combat.³⁰



Assault rifles are used for sustained fire action at relatively close range (under 100 meters being the norm). Here Russian troops engage targets with their AK-47/AKM assault rifles.



AK manual, gun magazine, and rifle book illustrate assault rifle "hosing down" technique.

Imports—AK-47 Variants. The Soviet Army's premier assault rifle, the AK-47, went into service in 1947. The AK-47 has been made in many variants since then. It is said to be the most widely-distributed rifle in the world.

China was directly responsible for the AK boom in the United States. The country exported few guns to the United States until 1987, when Chinese rifle imports—mostly semiautomatic versions of the AK-47—surged. The flood of Chinese rifles reached 64 percent of all rifles imported into the United States in 1993.³¹

The executive branch has clear, existing authority under the Gun Control Act of 1968 to completely prohibit the import of any "non-sporting" firearm, such as these military-derived weapons.³² In 1989, the George H.W. Bush administration blocked the importation of foreign-made semiautomatic assault rifles such as the AK variants. After the gun industry devised ways to skate around this ban with minor design changes, the Clinton administration acted again to cut off the flood of so-called "rule beaters."

The George W. Bush administration, however, completely and surreptitiously abrogated the first Bush and Clinton import rules. The Obama administration has done nothing to reinstate the earlier tough rules. Accordingly, Eastern European gun manufacturers have taken the place of the Chinese gun makers. They are supplying millions of AK-47-type weapons to the U.S. civilian market through licensed importers.

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GUNS & AMMO/DECEMBER 1985

Guns & Ammo ad for AK-type rifles from China in December 1985 (lower right). Since George W. Bush's administration opened the assault rifle floodgates again, AK-type rifles have poured in from Eastern Europe, as evidenced by this May 20, 2010, ad for J&G Sales from Shotgun News, which is typical of fare in the popular publication.

Domestic Production—AR-15 Variants of the M-16. After studying over three million casualty reports from World Wars I and II, and data from the Korean War, the U.S. Army concluded, “Marksmanship was not as important as volume.” Accordingly, it decided in the 1960s to replace its M-14 battle rifle with the M-16 assault rifle.³³

The gun industry quickly churned out civilian versions of the M-16, labeling the semiautomatic model the “AR-15” (the same designation as the prototype military assault rifle). “With the number of companies making those particular black rifles today, it’s tough to keep up them [sic],” a gun industry insider wrote in 2009.³⁴



The gun industry created a vast market for AR-15 civilian versions of the U.S. military’s M-16 assault rifle.

Manufacturers have recently introduced assault rifles in 22 caliber, considerably cheaper than the .223 ammunition of the usual AR-15 semiautomatic assault rifle. The lighter weapons also provide an entry model for later transition to higher-caliber rifles. For example, in August 2009 Smith & Wesson began shipments of its M&P15-22 semiautomatic assault rifle. Here is how one gun writer enthused about the new model:

...the M&P15-22 might be the first .22 LR AR platform that actually is appropriate for consumers, law enforcement and military use that can be used to teach AR operations and basic marksmanship skills and know there will be no modifications necessary to transition to the myriad of other AR calibers available.³⁵

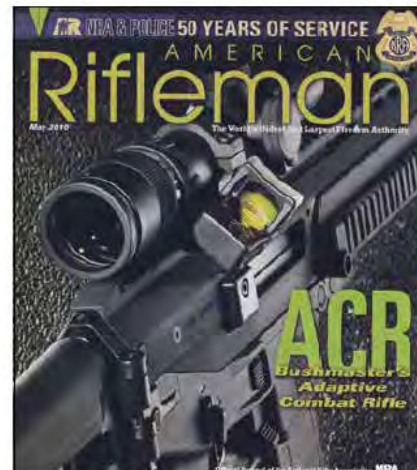


The industry has lately pushed 22 caliber semiautomatic assault rifles.

The 1994 Assault Weapons “Ban” and the Rise of Bushmaster. In 1994, Congress passed a ban on the production of certain semiautomatic assault weapons as well as new high-capacity ammunition magazines that held more than 10 rounds. The law banned specific assault weapons by name and also classified as assault weapons semiautomatic firearms that could accept a detachable ammunition magazine and had two additional assault weapon design characteristics.³⁶

Because the law listed merely cosmetic features (like bayonet mounts) and did not address the fundamental design of assault weapons, it was ineffective. The gun industry quickly made slight design changes in “post-ban” guns to evade the law, a tactic gunmakers dubbed “sporterization.” One of the most aggressive of the manufacturers of “post-ban” ARs was Bushmaster Firearms. A Bushmaster XM15 M4 A3 assault rifle was used by the Washington, D.C.-area snipers to kill 10 and injure three in October 2002. A poster child for the industry’s success at evading the ban, the snipers’ Bushmaster was marketed as a “Post-Ban Carbine.”

The 1994 law expired (“sunset”) on September 13, 2004.



The Washington, D.C.-area “Beltway Snipers” used the Bushmaster semiautomatic assault rifle being shown at left above. Among Bushmaster’s latest AR-type assault rifles is the “Adaptive Combat Rifle” featured on the cover of the NRA’s May 2010 *American Rifleman*.

Assault Pistols—UZI, Ingram, Intratec, and More. A particularly deadly variant in the gun industry's marketing program has been the sale of civilian assault pistols, which are for the most part simply semiautomatic versions of submachine guns. Firearms expert Duncan Long explained the marketing basis of this trend in his book *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families*:

As the militaries of the world increasingly rely on assault rifles to fill the submachine gun role, making money on a new submachine gun design becomes harder and harder....Citizens purchasing firearms for everything from plinking to self-defense have provided a lucrative market, especially in the United States. Those weapons produced for the civilian market are generally semiauto versions of the automatic weapons, often modified slightly to conform to U.S. firearms laws.³⁷

A more recent development has been the introduction of AK-47 type pistols, which combine all the deadly design characteristics of the military-style assault rifle with the greater concealability of the handgun.



Gun dealers offer AK-47 type semiautomatic assault pistols, like the Draco above, through the Internet.

THE ASSAULT WEAPONS HYPE MARKET

The 1980s Explosion. Assault weapons quickly became hot items on the civilian market in the 1980s for a variety of reasons. For manufacturers, assault weapons helped counter the mid-1980s decline in handgun sales. Criminals—especially drug traffickers—were drawn to assault weapons’ massive firepower, useful for fighting police and especially competing traffickers. Survivalists—who envisioned themselves fending off a horde of desperate neighbors from within their bomb shelters—loved the combat features of high ammunition capacity and anti-personnel striking power of assault weapons. Right-wing paramilitary extremists, in their ongoing battle against the “Zionist Occupational Government,” made these easily purchased firearms their gun of choice. And for gun enthusiast fans of popular entertainment—*Rambo* and *Miami Vice*—semiautomatic assault weapons offered the look and feel of the “real thing.”



German manufacturer Heckler & Koch pushed the civilian version of its military assault rifle in a series of ads—like these from *Guns & Ammo* magazine—in the mid-1980s stressing “survivalist” themes.

The Y2K Exploitation. The gun industry has ever since poured its efforts into new assault weapons designs and into their heavy marketing. One example of the industry's cynicism was its deliberate exploitation of widespread fears of a "breakdown" in public order at the turn of the millennium ("Y2K").³⁸

In the January 1999 issue of *Shooting Sports Retailer*, editor Bob Rogers predicted, "Amidst social turmoil and disintegrating economic underpinnings, you will sell more guns in 1999 than you've ever sold in your life."³⁹ *Shooting Industry's* Russ Thurman asked readers, "Are you cashing in on the new millennium?"⁴⁰

The prime danger, the gun industry luridly suggested, was that of rampaging humans: "...since the Have Nots won't hesitate to break in and take from the Haves, plan on close contact. And plan on being outnumbered. High-capacity rifles, pistols and shotguns are obvious choices."⁴¹ But domestic pets could also become a threat to life in the gun industry's bizarre world: "One might also need to quickly stop a dog or dogs who through starvation revert to wild beasts. Dogs take a lot of killing, so a powerful round and good shot placement will be necessary should this distasteful task arise."⁴²



Premier gun industry magazine *Shooting Industry* advised dealers in September 1999 (left) that "...taking advantage of the Y2K 'scare' is smart business...." In January 2000 the magazine reported that "...predictions of massive unrest...prompted gunowners to stock-up [sic] on ammunition."

Gun World's Y2K Daisy Chain



Gun World magazine not only published its own article in 1999 about how to “survive Y2K”—it also referred its readers to its sister publication *American Survival Guide*, in which appeared another article of survival advice written by *Gun World* editor Jan Libourel.



Typical Y2K gun ads from 1999 are shown above.

Continuing Incitement. The gun industry, the NRA, and the gun press have exploited every real and imagined public fear since the 1980s—including the terror attacks of September 2001, Hurricane Katrina, “spillover” of border violence, and concerns about violent “illegal” immigrants. The industry’s propaganda added fuel to the militia movement in the 1990s. Lethal confrontations occurred between federal law enforcement and civilians heavily armed with military-style weapons at Waco, Texas, and Ruby Ridge, Idaho. Barack Obama’s election, and fears that he would push an anti-gun agenda, ignited growth in the “militia” movement and a disturbing trend of open display of assault weapons near Presidential speaking engagements.⁴³



The ad for a Benelli shotgun on the left, from the NRA’s 2010 annual meeting brochure, ostensibly speaks to a “revolution” in shotgun design. The ad for the “tactical” shotgun on the right, from the September 2010 *Guns & Ammo* magazine, links “homeland security” to “Iraq, Afghanistan, Your Livingroom.”



The NRA pamphlet *Freedom in Peril* warns, “Second Amendment freedom today stands naked...” Laced with ugly stereotypes of the gun lobby’s political enemies—a classic technique for dehumanizing “the other”—it suggests “towering waves” of danger from ethnic and racial gangs. “Sometimes,” the brochure suggestively states, “any hope of prevailing rests in the hearts and hands of a very urgent few...”



The National Shooting Sports Foundation's Rebranding Campaign. In November 2009, the National Shooting Sports Foundation (NSSF) announced that—"due to gun owners' concerns over President-elect Obama and possible legislation regulating the Second Amendment rights of Americans"—it had placed on its website a "media resource...to help clear up much of the confusion and misinformation about so-called 'assault weapons.'"⁴⁴

This was the opening salvo in the industry's meretricious campaign to "rebrand" semiautomatic assault weapons as "modern sporting rifles."⁴⁵ The point of the campaign—inspired by the pummeling the industry gets for selling killing machines—is apparently that semiautomatic assault rifles are really just another sporting gun, no different from an older generation of bolt-action and low-capacity rifles.

Unfortunately for the NSSF and the industry, the widely-reported affection for semiautomatic assault rifles by extremists, drug lords, and common criminals gives the lie to this insidious "rebranding" campaign. Even worse, some within the gun industry's own ranks apparently never got the NSSF rebranding memo. They continue to call semiautomatic assault rifles what they are—*assault* rifles—and even write lurid prose promoting the worst features of these guns.



Manufacturers and fan magazines alike called semiautomatic assault weapons "assault weapons" before their deadly killing power became a matter of public debate.

For recent example, the August 2010 edition of *Gun World* magazine headlines "Ruger's Mini-14 Tactical Rifle" as "'Combat Customized' From the Factory."⁴⁶ Among other outbursts of naked candor in the enthusiastic article are the following—

- Ruger's Mini-14 Tactical Rifle is a version of the well-established Mini-14 incorporating many of the assault rifle features that end users have been [sic] applying themselves for decades, this time straight from the factory.
- **Being seen over the years as a sort of "poor man's assault rifle" the Mini-14 has spawned a huge array of after-market parts that may be applied to make it more "assault rifle-y."** Recently Sturm, Ruger & Co. finally decided to get into the act themselves by producing their Mini-14 Tactical Rifles. [Bold added]

This spasm of candor is typical of the "wink and nod" game that the gun industry plays when it talks to itself and to its hard-core consumers: call them what you will—"black rifles," "tactical rifles," or "modern sporting rifles"—semiautomatic assault weapons are plain and simply military-style assault weapons.



50 CALIBER ANTI-ARMOR SNIPER RIFLES

The 50 caliber anti-armor sniper rifle is a case of militarization in which precisely the same weapon is sold on the civilian market as that sold to the world's armed services.

This lucrative weapon was invented in the early 1980s by a Tennessee commercial photographer, Ronnie G. Barrett, who derived the sniper rifle from the Browning 50 caliber machine gun.⁴⁷

Barrett's 1987 patent called his new invention an "anti-armor gun." He described the rifle in his patent claim as a "shoulder-fireable, armor-penetrating gun." Barrett related the novelty of his anti-armor gun as follows:

The recoil and weight of the Browning M-2 heavy-barrel machine gun (50 cal.), belt-fed, make it unsuitable for firing from the shoulder. The bolt-fed sniper rifle of smaller weight and caliber will not penetrate armored targets. The bolts of guns of a caliber that will penetrate armored targets are often broken by recoil because of excessive strain on the lock lugs. Thus, there is a need for a light-weight, shoulder-fireable, armor-penetrating gun that can stand up to heavy duty use. After extended investigation I have come up with just such a gun.

Barrett Firearms Manufacturing, Inc. is today the leading supplier of 50 caliber anti-armor sniper rifles to U.S. military forces and many other armies of the world.



Advertising note "From the Desk of Ronnie Barrett," inventor of the 50 caliber anti-armor sniper rifle, boasts that "...each Barrett model of large-caliber rifle is in service with a government somewhere around the globe." In his pitch to "Fellow Gun Enthusiasts," Barrett urges them to "[c]onsider this when you are comparing our rifles to any other

Barrett has also aggressively marketed its anti-armor rifles to civilian buyers in the United States. After Barrett effectively created a new civilian market for his anti-armor rifles, lower-priced competition sprang up from dozens of new manufacturers cashing in on the booming niche. These rifles have become one of the hottest items sold in the civilian market.

In spite of their battlefield pedigree, 50 caliber anti-armor rifles are no more regulated under federal law than a 22 caliber target rifle, and are less regulated than handguns. Under federal law, anyone at least 18 years of age who is not in a category as to whom transfers or possession of firearms is prohibited—such as convicted felons—can legally buy any .50BMG anti-armor sniper rifle sold in America. But it is against the law for a federally licensed dealer to sell a handgun to anyone less than 21 years of age. Unlike other weapons of war—such as 50 caliber fully automatic machine guns—50 caliber anti-armor rifles are exempt from the stringent provisions of the federal National Firearms Act, which requires a photo, fingerprints, local law enforcement approval, record of the transfer, and registration of the weapon with a \$200 fee.



The gun industry has saturated the American civilian “gun culture” with 50 caliber anti-armor sniper rifles, like this AR-50.

TAXPAYERS SUBSIDIZE THE GUN INDUSTRY

In spite of “anti-government” and insurrectionist rhetoric from the National Rifle Association and its ilk, the gun industry and the gun lobby aggressively milk the federal government for taxpayer subsidies. For example, the U.S. Fish & Wildlife Service regularly subsidizes gun industry marketing research in the guise of “conservation” grants, as described in this 2009 industry article:

The Task Force 20/20 group, industry leaders from the hunting and shooting sports, is continuing to work toward its goal of increasing participation in hunting and the shooting sports by 20 percent over the next five years....Task Force 20/20 began in 2008 during the NSSF Summit whose primary focus was discussing research from a three-year study titled *The Future of Hunting and the Shooting Sports—Research-based Recruitment and Retention Strategies*. The report condenses the findings of one of the largest and most comprehensive studies ever conducted on factors related to the hunting and shooting sports industry. Funding for the research came from the U.S. Fish & Wildlife Service in the form of a multi-state conservation grant.⁴⁸

The Future of Hunting and the Shooting Sports
Research-based Recruitment and Retention Strategies

Background:
In June the National Shooting Sports Foundation hosted the **2008 Shooting Sports Summit** in Colorado Springs. The Summit gathered leaders from throughout the shooting, hunting and outdoor industry as well as key leaders from fish and wildlife agencies and conservation organizations to address key challenges that face the future of the shooting sports.

At the core of the Summit was a three-year research project titled, "*The Future of Hunting and the Shooting Sports - Research-based Recruitment and Retention Strategies*." **The report condenses the findings of one of the largest and most comprehensive studies ever conducted on the factors related to our industry.** Funding for the research came from the U.S. Fish & Wildlife Service in the form of a multi-state conservation grant. NSSF commissioned the firm of Responsive Management to conduct the research for the report.

The Summit closed out with attendees committed to taking action on key efforts to reach new hunters and shooters to ensure that our shooting traditions will be a lasting heritage passed on to future generations. To guide the successful implementation of this research the NSSF has developed *Task Force 20/20SM*.

TASK FORCE 20/20

Mfr. & Distrib. ... Agencies ... Hunting Groups ... Shooting Groups ... Media ... Retailers

Member Organizations:

The U.S. armed forces also subsidize industry activity, largely through the ploy of “marksmanship” programs, as this article from an industry newsletter attests:

Every summer, prior to the National Rifle and Pistol Trophy Matches at Camp Perry, Ohio, Soldiers from the U.S. Army Marksmanship Unit take time out of their own training and preparation to pass their knowledge and superb shooting skills on to the next generation of American shooters at the Small Arms Firing School....

“It’s such a great thing,” said Jim Davis, Hamilton, Ind. “This is the best place in the country, maybe the world, to learn about shooting and everything that goes with it.”

Davis took his son and three other children from the Dekalb County 4-H club to the rifle class, stressing to them how valuable the instruction that they are receiving is to them now and down the road.

“I still remember when I came to this school as a teenager,” he said. “I tell my kid that this is something that you’ll always remember.”⁴⁹

The Army Marksmanship Unit also hosts an annual event for “civilians playing army in combat situations.”⁵⁰

The shooting sport of 3-gun competition, with pistol, rifle, and tactical shotgun is rooted somewhere in the idea of adults playing army. It is simulated combat. And Three Gun can get even more interesting when the Army issues an invitation to bring your guns and join up for three days of competition, with the Army Marksmanship Unit hosting their 3-gun challenge.⁵¹

The bottom line—ultimately the only thing that matters to the gun industry—is that taxpayers are paying for the means by which a dying industry hangs on by funding market research in the guise of “conservation grants” and introducing new generations of children to the “sport” of shooting military-style weapons in the drag of military marksmanship programs.

THE RESULT: MILITARIZED FIREARMS DEFINE THE U.S. CIVILIAN FIREARMS MARKET

Military-style weapons today define the U.S. civilian gun market. As noted earlier, *Shooting Wire* summarized the gun industry's situation in December 2008 as follows:

The net of all the numbers is that if you're a company with a strong line of high-capacity pistols and AR-style rifles, you're doing land office business. If you're heavily dependent on hunting, you are hurting.⁵²



Military-style “combat rifles” and lethal firepower dominate U.S. civilian firearms market production and marketing.

THE CONSEQUENCES OF MILITARIZATION

The widespread availability of militarized firearms—including especially high-capacity semiautomatic pistols and assault weapons—has substantially raised the level of lethality of armed encounters in the United States. Criminal street gangs, drug traffickers, and militant extremists are all drawn to the military-style firepower of these weapons.

Two trends are remarkable.

Increasing Attacks on Law Enforcement with Assault Weapons. A recent Violence Policy Center study of reported incidents showed that more than one out of four assault weapons incidents involve police. Moreover, the number of assault weapons incidents involving police grew significantly between the two periods studied (March 1, 2005 to February 28, 2006 and March 1, 2006 to February 28, 2007).⁵³

A typical more recent incident is that of Richard Poplawski, who is accused of shooting to death Pittsburgh, Pennsylvania, police officers Paul J. Sciallo II, Stephen J. Mayhle, and Eric G. Kelly on April 4, 2009. Among the guns Poplawski fired at police was an AK-47 semiautomatic assault rifle.⁵⁴



Richard Poplawski and the three police officers who died on April 4, 2009.

Trafficking of Military-Style Weapons from the United States. According to both United States and Mexican officials, large numbers of military-style firearms from the U.S. civilian gun market fuel criminal violence in Mexico. Congressional hearings and public policy reports have made clear that the U.S. gun industry is instrumental in making readily available to illegal gun traffickers the types and numbers of weapons that facilitate drug lords' confrontations with the Mexican government and its people. U.S. and Mexican officials report that, based on firearms tracing data from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the cartels obtain up to 90 percent of their firearms from the United States.⁵⁵



Military-style firearms smuggled from the United States fuel violence among Mexican drug cartels and criminal confrontations with the Mexican government. Weapons of choice include 50 caliber anti-armor sniper rifles, assault rifles, and cop-killing FN Five-seven anti-armor handguns.

WHAT CAN BE DONE?

More than anything else, the news media, public interest groups, and especially policymakers must come to grips with a deadly reality. That reality is that the gun industry is not today—if it ever was—a “sporting” industry. It is a highly militarized and increasingly cynical industry that has cast all restraint aside to generate profit from military-style firearms.

Like an injured predator, the industry is particularly dangerous as it sinks further into its inevitable decline. The gun industry’s desperate “marketing” campaigns underwrite mass shootings in the United States, increasingly lethal confrontations with law enforcement, and armed violence abroad.

Most insidiously, the gun lobby’s exploitation of fear—racial, ethnic, and political—encourages resort to armed violence among the most impressionable and ill-equipped to function in a complex society.

This is truly an era in which to do nothing is to invite unthinkable violence.

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EXHIBIT 10
TO THE DECLARATION OF JOHN D. ECHEVERRIA

U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

ATF

Study on the Importability of Certain Shotguns



Firearms and Explosives Industry Division

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TABLE OF CONTENTS

	Page
1. Executive Summary.....	ii
2. Study on the Importability of Certain Shotguns.....	1
3. Background on Shotguns.....	1
4. Background on Sporting Suitability.....	1
5. Methodology.....	5
6. Analysis.....	7
Scope of Sporting Purpose.....	7
Suitability for Sporting Purposes.....	8
7. Conclusion.....	13
8. Exhibits	
1. Shotgun Stock Style Comparison	
2. State Laws	
3. Sample Drum Magazine	
4. Integrated Rail System	
5. Bulk Measurements	
6. Forward Pistol Grip	

Study on the Importability of Certain ShotgunsExecutive Summary

The purpose of this study is to establish criteria that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will use to determine the importability of certain shotguns under the provisions of the Gun Control Act of 1968 (GCA).

The Gun Control Act of 1968 (GCA) generally prohibits the importation of firearms into the United States.¹ However, pursuant to 18 U.S.C. § 925(d), the GCA creates four narrow categories of firearms that the Attorney General must authorize for importation. Under one such category, subsection 925(d)(3), the Attorney General shall approve applications for importation when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”).

After passage of the GCA in 1968, a panel was convened to provide input on the sporting suitability standards which resulted in factoring criteria for handgun importations. Then in 1989, and again in 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conducted studies to determine the sporting suitability and importability of certain firearms under section 925(d)(3). However, these studies focused mainly on a type of firearm described as “semiautomatic assault weapons.” The 1989 study determined that assault rifles contained a variety of physical features that distinguished them from traditional sporting rifles. The study concluded that there were three characteristics that defined semiautomatic assault rifles.²

The 1998 study concurred with the conclusions of the 1989 study, but included a finding that “the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.”³ Further, both studies concluded that the scope of “sporting purposes” did not include all lawful activity, but was limited to traditional sports such as hunting, skeet shooting, and trap shooting. This effectively narrowed the universe of firearms considered by each study because a larger number of firearms are “particularly suitable for or readily adaptable to a sporting purpose” if plinking⁴ and police or military-style practical shooting competitions are also included as a “sporting purpose.”⁵

Although these studies provided effective guidelines for determining the sporting purposes of rifles, ATF recognized that no similar studies had been completed to determine the sporting

¹ Chapter 44, Title 18, United States Code (U.S.C.), at 18 U.S.C. § 922(l).

² These characteristics were: (a) a military configuration (ability to accept a detachable magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights); (b) a semiautomatic version of a machinegun; and (c) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less. *1989 Report and Recommendation on the Importability of Certain Semiautomatic Rifles (1989 Study)* at 6-9.

³ *1998 Department of the Treasury Study on the Sporting Suitability of Modified Semiautomatic Rifles (1998 Study)* at 2.

⁴ “Plinking” is shooting at random targets such as bottles and cans. 1989 Report at 10.

⁵ 1989 Report at 8-9; 1998 Study at 18-19.

suitability of shotguns. A shotgun study working group (working group) was assigned to perform a shotgun study under the § 925(d)(3) sporting purposes test. The working group considered the 1989 and 1998 studies, but neither adopted nor entirely accepted findings from those studies as conclusive as to shotguns.

Sporting Purpose

Determination of whether a firearm is generally accepted for use in sporting purposes is the responsibility of the Attorney General (formerly the Secretary of the Treasury). As in the previous studies, the working group considered the historical context of “sporting purpose” and that Congress originally intended a narrow interpretation of sporting purpose under § 925(d)(3).

While the 1989 and 1998 studies considered all rifles in making their recommendations, these studies first identified firearm features and subsequently identified those activities believed to constitute a legitimate “sporting purpose.” However, in reviewing the previous studies, the working group believes that it is appropriate to first consider the current meaning of “sporting purpose” as this may impact the “sporting” classification of any shotgun or shotgun features. For example, military shotguns, or shotguns with common military features that are unsuitable for traditional shooting sports, may be considered “particularly suitable for or readily adaptable to sporting purposes” if military shooting competitions are considered a generally recognized sporting purpose. Therefore, in determining the contemporary meaning of sporting purposes, the working group examined not only the traditional sports of hunting and organized competitive target shooting, but also made an effort to consider other shooting activities.

In particular, the working group examined participation in and popularity of practical shooting events as governed by formal rules, such as those of the United States Practical Shooting Association (USPSA) and International Practical Shooting Confederation (IPSC), to determine whether it was appropriate to consider these events a “sporting purpose” under § 925(d)(3). While the number of members reported for USPSA is similar to the membership for other shotgun shooting organizations,⁶ the working group ultimately determined that it was not appropriate to use this shotgun study to determine whether practical shooting is “sporting” under § 925(d)(3). A change in ATF’s position on practical shooting has potential implications for rifle and handgun classifications as well. Therefore, the working group believes that a more thorough and complete assessment is necessary before ATF can consider practical shooting as a generally recognized sporting purpose.

The working group agreed with the previous studies in that the activity known as “plinking” is “primarily a pastime” and could not be considered a recognized sport for the purposes of

⁶ Organization websites report these membership numbers: for the United States Practical Shooting Association, approx. 19,000; Amateur Trapshooting Association, over 35,000 active members; National Skeet Shooting Association, nearly 20,000 members; National Sporting Clays Association, over 22,000 members; Single Action Shooting Society, over 75,000 members.

importation.⁷ Because almost any firearm can be used in that activity, such a broad reading of “sporting purpose” would be contrary to the congressional intent in enacting section 925(d)(3). For these reasons, the working group recommends that plinking not be considered a sporting purpose. However, consistent with past court decisions and Congressional intent, the working group recognized hunting and other more generally recognized or formalized competitive events similar to the traditional shooting sports of trap, skeet, and clays.

Firearm Features

In reviewing the shotguns used for those activities classified as sporting purposes, the working group examined State hunting laws, rules, and guidelines for shooting competitions and shooting organizations; industry advertisements and literature; scholarly and historical publications; and statistics on participation in the respective shooting sports. Following this review, the working group determined that certain shotgun features are not particularly suitable or readily adaptable for sporting purposes. These features include:

- (1) Folding, telescoping, or collapsible stocks;
- (2) bayonet lugs;
- (3) flash suppressors;
- (4) magazines over 5 rounds, or a drum magazine;
- (5) grenade-launcher mounts;
- (6) integrated rail systems (other than on top of the receiver or barrel);
- (7) light enhancing devices;
- (8) excessive weight (greater than 10 pounds for 12 gauge or smaller);
- (9) excessive bulk (greater than 3 inches in width and/or greater than 4 inches in depth);
- (10) forward pistol grips or other protruding parts designed or used for gripping the shotgun with the shooter’s extended hand.

Although the features listed above do not represent an exhaustive list of possible shotgun features, designs or characteristics, the working group determined that shotguns with any one of these features are most appropriate for military or law enforcement use. Therefore, shotguns containing any of these features are not particularly suitable for nor readily adaptable to generally recognized sporting purposes such as hunting, trap, sporting clay, and skeet shooting. Each of these features and an analysis of each of the determinations are included within the main body of the report.

⁷ 1989 Study at 10; 1998 Study at 17.

Study on the Importability of Certain Shotguns

The purpose of this study is to establish criteria that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will use to determine the importability of certain shotguns under the provisions of the Gun Control Act of 1968 (GCA).

Background on Shotguns

A shotgun is defined by the GCA as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.”⁸

Shotguns are traditional hunting firearms and, in the past, have been referred to as bird guns or “fowling” pieces. They were designed to propel multiple pellets of shot in a particular pattern that is capable of killing the game that is being hunted. This design and type of ammunition limits the maximum effective long distance range of shotguns, but increases their effectiveness for small moving targets such as birds in flight at a close range. Additionally, shotguns have been used to fire slugs. A shotgun slug is a single metal projectile that is fired from the barrel. Slugs have been utilized extensively in areas where State laws have restricted the use of rifles for hunting. Additionally, many States have specific shotgun seasons for deer hunting and, with the reintroduction of wild turkey in many States, shotguns and slugs have found additional sporting application.

Shotguns are measured by *gauge* in the United States. The gauge number refers to the “number of equal-size balls cast from one pound of lead that would pass through the bore of a specific diameter.”⁹ The largest commonly available gauge is 10 gauge (.0775 in. bore diameter). Therefore, a 10 gauge shotgun will have an inside diameter equal to that of a sphere made from one-tenth of a pound of lead. By far, the most common gauges are 12 (0.729 in. diameter) and 20 (0.614 in. diameter). The smallest shotgun that is readily available is known as a “.410,” which is the diameter of its bore measured in inches. Technically, a .410 is a 67 gauge shotgun.

Background on Sporting Suitability

The GCA generally prohibits the importation of firearms into the United States.¹⁰ However, the statute exempts four narrow categories of firearms that the Attorney General shall authorize for importation. Originally enacted by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968,¹¹ and amended by Title I of the GCA¹² enacted that same year, this section provides, in pertinent part:

⁸ 18 U.S.C. § 921(a)(5).

⁹ The Shotgun Encyclopedia at 106.

¹⁰ 18 U.S.C. § 922(f).

¹¹ Pub. Law 90-351 (June 19, 1968).

¹² Pub. Law 90-618 (October 22, 1968).

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 8 of 35

- 2 -

the Attorney General shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . . (3) is of a **type** that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled.¹³ (Emphasis added)

This section addresses Congress' concern that the United States had become a "dumping ground of the castoff surplus military weapons of other nations,"¹⁴ in that it exempted only firearms with a generally recognized sporting purpose. In recognizing the difficulty in implementing this section, Congress gave the Secretary of the Treasury (now the Attorney General) the discretion to determine a weapon's suitability for sporting purposes. This authority was ultimately delegated to what is now ATF. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.¹⁵

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace....¹⁶

Since that time, ATF has been responsible for determining whether firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes under the statute.

¹³ 18 U.S.C. § 925(d)(3). In pertinent part, 26 U.S.C. § 5845(a) includes "a shotgun having a barrel or barrels of less than 18 inches in length."

¹⁴ 90 P.L. 351 (1968).

¹⁵ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁶ S. Rep. No. 1097, 90th Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In Gun South, Inc. v. Brady, 877 F.2d 858, 863 (11th Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

On December 10, 1968, the Alcohol and Tobacco Tax Division of the Internal Revenue Service (predecessor to ATF) convened a “Firearm Advisory Panel” to assist with defining “sporting purposes” as utilized in the GCA. This panel was composed of representatives from the military, law enforcement, and the firearms industry. The panel generally agreed that firearms designed and intended for hunting and organized competitive target shooting would fall into the sporting purpose criteria. It was also the consensus that the activity of “plinking” was primarily a pastime and therefore would not qualify. Additionally, the panel looked at criteria for handguns and briefly discussed rifles. However, no discussion took place on shotguns given that, at the time, all shotguns were considered inherently sporting because they were utilized for hunting or organized competitive target competitions.

Then, in 1984, ATF organized the first large scale study aimed at analyzing the sporting suitability of certain firearms. Specifically, ATF addressed the sporting purposes of the Striker-12 and Streetsweeper shotguns. These particular shotguns were developed in South Africa as law enforcement, security and anti-terrorist weapons. These firearms are nearly identical 12-gauge shotguns, each with 12-round capacity and spring-driven revolving magazines. All 12 rounds can be fired from the shotguns within 3 seconds.

In the 1984 study, ATF ruled that the Striker-12 and the Streetsweeper were not eligible for importation under 925(d)(3) because they were not “particularly suitable for sporting purposes.” In doing this, ATF reversed an earlier opinion and specifically rejected the proposition that police or combat competitive shooting events were a generally accepted “sporting purpose.” This 1984 study adopted a narrow interpretation of organized competitive target shooting competitions to include the traditional target events such as trap and skeet. ATF ultimately concluded that the size, weight and bulk of the shotguns made them difficult to maneuver in traditional shooting sports and, therefore, these shotguns were not particularly suitable for or readily adaptable to these sporting purposes. At the same time, however, ATF allowed importation of a SPAS-12 variant shotgun because its size, weight, bulk and *modified* configuration were such that it was particularly suitable for traditional shooting sports.¹⁷ The Striker-12 and Streetsweeper were later classified as “destructive devices” pursuant to the National Firearms Act.¹⁸

In 1989, and again in 1998, ATF conducted studies to determine whether certain rifles could be imported under section 925(d)(3). The respective studies focused primarily on the application of the sporting purposes test to a type of firearm described as a “semiautomatic assault weapon.” In both 1989 and 1998, ATF was concerned that certain semiautomatic assault weapons had been approved for importation even though they did not satisfy the sporting purposes test.

¹⁷ Private letter Ruling of August 9, 1989 from Bruce L. Weininger, Chief, Firearms and Explosives Division.

¹⁸ See ATF Rulings 94-1 and 94-2.

1989 Study

In 1989, ATF announced that it was suspending the importation of several semiautomatic assault rifles pending a decision on whether they satisfied the sporting criteria under section 925(d)(3). The 1989 study determined that assault rifles were a “type” of rifle that contained a variety of physical features that distinguished them from traditional sporting rifles. The study concluded that there were three characteristics that defined semiautomatic assault rifles:

- (1) a military configuration (ability to accept a detachable magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights);
- (2) semiautomatic version of a machinegun;
- (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.¹⁹

The 1989 study then examined the scope of “sporting purposes” as used in the statute.²⁰ The study noted that “[t]he broadest interpretation could take in virtually any lawful activity or competition which any person or groups of persons might undertake. Under this interpretation, any rifle could meet the “sporting purposes” test.²¹ The 1989 study concluded that a broad interpretation would render the statute useless. The study therefore concluded that neither plinking nor “police/combat-type” competitions would be considered sporting activities under the statute.²²

The 1989 study concluded that semiautomatic assault rifles were “designed and intended to be particularly suitable for combat rather than sporting applications.”²³ With this, the study determined that they were not suitable for sporting purposes and should not be authorized for importation under section 925(d)(3).

1998 Study

The 1998 study was conducted after “members of Congress and others expressed concern that rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable” under the 1989 study.²⁴ Specifically, many firearms found to be nonimportable under the 1989 study were later modified to meet the standards outlined in the study. These firearms were then legally imported into the country under section 925(d)(3). ATF commissioned the 1998 study on the sporting suitability of semiautomatic rifles to address concerns regarding these modified firearms.

¹⁹ 1989 Report and Recommendation on the ATF Working Group on the Importability of Certain Semiautomatic Rifles (1989 Study).

²⁰ *Id.* at 8.

²¹ *Id.*

²² *Id.* At 9.

²³ *Id.* At 12.

²⁴ 1998 Study at 1.

The 1998 study identified the firearms in question and determined that the rifles shared an important feature—the ability to accept a large capacity magazine that was originally designed for military firearms. The report then referred to such rifles as Large Capacity Military Magazine rifles or “LCMM rifles.”²⁵

The study noted that after 1989, ATF refused to allow importation of firearms that had any of the identified non-sporting features, but made an exception for firearms that possessed only a detachable magazine. Relying on the 1994 Assault Weapons Ban, the 1998 study noted that Congress “sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting.”²⁶ The study concluded by adopting the standards set forth in the 1989 study and by reiterating the previous determination that large capacity magazines are a military feature that bar firearms from importation under section 925(d)(3).²⁷

Present Study

While ATF conducted the above mentioned studies on the sporting suitability of rifles, to date, no study has been conducted to address the sporting purposes and importability of shotguns. This study was commissioned for that purpose and to ensure that ATF complies with its statutory mandate under section 925(d)(3).

Methodology

To conduct this study, the working group reviewed current shooting sports and the sporting suitability of common shotguns and shotgun features. At the outset, the working group recognized the importance of acknowledging the inherent differences between rifles, handguns and shotguns. These firearms have distinct characteristics that result in specific applications of each weapon. Therefore, in conducting the study, the working group generally considered shotguns without regard to technical similarities or differences that exist in rifles or handguns.

The 1989 and 1998 studies examined particular features and made sporting suitability determinations based on the generally accepted sporting purposes of *rifles*. These studies served as useful references because, in recent years, manufacturers have produced shotguns with features traditionally found only on rifles. These features are typically used by military or law enforcement personnel and provide little or no advantage to sportsmen.

Following a review of the 1989 and 1998 studies, the working group believed that it was necessary to first identify those activities that are considered legitimate “sporting purposes” in the modern era. While the previous studies determined that only “the traditional sports of hunting and organized competitive target shooting” would be considered “sporting,”²⁸ the working group recognized that sporting purposes may evolve over time. The working group felt

²⁵ 1998 Study at 16.

²⁶ 1998 Study at 3.

²⁷ The 1994 Assault Weapons Ban expired Sept. 13, 2004, as part of the law's sunset provision.

²⁸ 1998 Study at 16.

that the statutory language supported this because the term “generally recognized” modifies, not only firearms used for shooting activities, but also the shooting activities themselves. This is to say that an activity is considered “sporting” under section 925(d)(3) if it is generally recognized as such.²⁹ Therefore, activities that were “generally recognized” as legitimate “sporting purposes” in previous studies are not necessarily the same as those activities that are “generally recognized” as sporting purposes in the modern era. As stated above, Congress recognized the difficulty in legislating a fixed meaning and therefore gave the Attorney General the responsibility to make such determinations. As a result, the working group did not simply accept the proposition that sporting events were limited to hunting and traditional trap and skeet target shooting. In determining whether an activity is now generally accepted as a sporting purpose, the working group considered a broad range of shooting activities.

Once the working group determined those activities that are generally recognized as a “sporting purpose” under section 925(d)(3), it examined numerous shotguns with diverse features in an effort to determine whether any particular firearm was particularly suitable for or readily adaptable to those sports. In coming to a determination, the working group recognized that a shotgun cannot be classified as sporting merely because it may be used for a sporting purpose. During debate on the original bill, there was discussion about the meaning of the term “sporting purposes.” Senator Dodd stated:

Here again I would have to say that if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.³⁰

In making a determination on any particular feature, the working group considered State hunting laws, currently available products, scholarly and historical publications, industry marketing, and rules and regulations of organization such as the National Skeet Shooting Association, Amateur Trapshooting Association, National Sporting Clays Association, Single Action Shooting Society, International Practical Shooting Confederation (IPSC), and the United States Practical Shooting Association (USPSA). Analysis of these sources as well as a variety of shotguns led the working group to conclude that certain shotguns were of a type that did not meet the requirements of section 925(d)(3), and therefore, could not lawfully be imported.

²⁹ ATF previously argued this very point in *Gilbert Equipment Company, Inc. v. Higgins*, 709 F. Supp. 1071, 1075 (S.D. Ala. 1989). The court agreed, noting, “according to Mr. Drake, the bureau takes the position . . . that an event has attained general recognition as being a sport before those uses and/or events can be ‘sporting purposes’ or ‘sports’ under section 925(d)(3).” See also Declaration of William T. Drake, Deputy Director, Bureau of Alcohol, Tobacco and Firearms.

³⁰ 114 Cong. Rec. 27461-462 (1968).

AnalysisA. Scope of Sporting Purposes

In conducting the sporting purposes test on behalf of the Attorney General, ATF examines the physical and technical characteristics of a shotgun and determines whether those characteristics meet this statutory requirement. A shotgun's suitability for a particular sport depends upon the nature and requirements inherent to that sport. Therefore, determining a "sporting purpose" was the first step in this analysis under section 925(d)(3) and is a critical step of the process.

A broad interpretation of "sporting purposes" may include any lawful activity in which a shooter might participate and could include any organized or individual shooting event or pastime. A narrow interpretation of "sporting purposes" would clearly result in a more selective standard governing the importation of shotguns.

Consistent with previous ATF decisions and case law, the working group recognized that a sport or event must "have attained general recognition as being a 'sport,' before those uses and/or events can be 'sporting purposes' or 'sports' under Section 925(d)(3)."³¹ The statutory language limits ATF's authority to recognize a particular shooting activity as a "sporting purpose," and therefore requires a narrow interpretation of this term. As stated however, the working group recognized that sporting purposes may change over time, and that certain shooting activities may become "generally recognized" as such.

At the present time, the working group continues to believe that the activity known as "plinking" is not a generally recognized sporting purpose. There is nothing in the legislative history of the GCA to indicate that section 925(d)(3) was meant to recognize every conceivable type of activity or competition that might employ a firearm. Recognition of plinking as a sporting purpose would effectively nullify section 925(d)(3) because it may be argued that *any* shotgun is particularly suitable for or readily adaptable to this activity.

The working group also considered "practical shooting" competitions. Practical shooting events generally measure a shooter's accuracy and speed in identifying and hitting targets while negotiating obstacle-laden shooting courses. In these competitions, the targets are generally stationary and the shooter is mobile, as opposed to clay target shooting where the targets are moving at high speeds mimicking birds in flight. Practical shooting consist of rifle, shotgun and handgun competitions, as well as "3-Gun" competitions utilizing all three types of firearm on one course. The events are often organized by local or national shooting organizations and attempt to categorize shooters by skill level in order to ensure competitiveness within the respective divisions. The working group examined participation in and popularity of practical shooting events as governed under formal rules such as those of the United States Practical Shooting Association (USPSA) and International Practical Shooting Confederation (IPSC) to see

³¹ *Gilbert at 1083.*

if it is appropriate to consider these events a legitimate “sporting purpose” under section 925(d)(3).

The USPSA currently reports approximately 19,000 members that participate in shooting events throughout the United States.³² While USPSA’s reported membership is within the range of members for some other shotgun shooting organizations,³³ organizations involved in shotgun hunting of particular game such as ducks, pheasants and quail indicate significantly more members than any of the target shooting organizations.³⁴ Because a determination on the sporting purpose of practical shooting events should be made only after an in-depth study of those events, the working group determined that it was not appropriate to use this shotgun study to make a definitive conclusion as to whether practical shooting events are “sporting” for purposes of section 925(d)(3). Any such study must include rifles, shotguns and handguns because practical shooting events use all of these firearms, and a change in position by ATF on practical shooting or “police/combat-type” competitions may have an impact on the sporting suitability of rifles and handguns. Further, while it is clear that shotguns are used at certain practical shooting events, it is unclear whether shotgun use is so prevalent that it is “generally recognized” as a sporting purpose. If shotgun use is not sufficiently popular at such events, practical shooting would have no effect on any sporting suitability determination of shotguns. Therefore, it would be impractical to make a determination based upon one component or aspect of the practical shooting competitions.

As a result, the working group based the following sporting suitability criteria on the traditional sports of hunting, trap and skeet target shooting.

B. Suitability for Sporting Purposes

The final step in our review involved an evaluation of shotguns to determine a “type” of firearm that is “generally recognized as particularly suitable or readily adaptable to sporting purposes.” Whereas the 1989 and 1998 studies were conducted in response to Congressional interest pertaining to a certain “type” of firearm, the current study did not benefit from a mandate to focus upon and review a particular type of firearm. Therefore, the current working group determined that it was necessary to consider a broad sampling of shotguns and shotgun features that may constitute a “type.”

Whereas rifles vary greatly in size, function, caliber and design, historically, there is less variation in shotgun design. However, in the past several years, ATF has witnessed increasingly diverse shotgun design. Much of this is due to the fact that some manufacturers are now applying rifle designs and features to shotguns. This has resulted in a type of shotgun that has

³² See www.uspsa.org.

³³ Organization websites report these membership numbers: for the United States Practical Shooting Association, approx. 19,000; Amateur Trapshooting Association, over 35,000 active members; National Skeet Shooting Association, nearly 20,000 members; National Sporting Clays Association, over 22,000 members; Single Action Shooting Society, over 75,000 members.

³⁴ Organization websites report these membership numbers: Ducks Unlimited, U.S adult 604,902 (Jan. 1, 2010); Pheasants/Quail Forever, over 130,000 North American members (2010) <http://www.pheasantfest.org/page/1/PressReleaseViewer.jsp?pressReleaseId=12406>.

features or characteristics that are based on tactical and military firearms. Following a review of numerous shotguns, literature, and industry advertisements, the working group determined that the following shotgun features and design characteristics are particularly suitable for the military or law enforcement, and therefore, offer little or no advantage to the sportsman. Therefore, we recognized that any shotgun with one or more of these features represent a “type” of firearm that is not “generally recognized as particularly suitable or readily adaptable to sporting purposes” and may not be imported under section 925(d)(3).

(1) Folding, telescoping or collapsible stock.

Shotgun stocks vary in style, but sporting stocks have largely resembled the traditional design.³⁵ Many military firearms incorporate folding or telescoping stocks. The main advantage of this feature is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded or retracted position, yet it is difficult to fire as accurately as can be done with an open or fully extended stock. While a folding stock or telescoping stock makes it easier to carry the firearm, its predominant advantage is for military and tactical purposes. A folding or telescoping stock is therefore not found on the traditional sporting shotgun. Note that certain shotguns may utilize adjustable butt plates, adjustable combs, or other designs intended only to allow a shooter to make small custom modifications to a shotgun. These are not intended to make a shotgun more portable, but are instead meant to improve the overall “fit” of the shotgun to a particular shooter. These types of adjustable stocks are sporting and are, therefore, acceptable for importation.

(2) Bayonet Lug.

A bayonet lug is generally a metal mount that allows the installation of a bayonet onto the end of a firearm. While commonly found on rifles, bayonets have a distinct military purpose. Publications have indicated that this may be a feature on military shotguns as well.³⁶ It enables soldiers to fight in close quarters with a knife attached to their firearm. The working group discovered no generally recognized sporting application for a bayonet on a shotgun.

(3) Flash Suppressor.

Flash suppressors are generally used on military firearms to disperse the muzzle flash in order to help conceal the shooter’s position, especially at night. Compensators are used on military and commercial firearms to assist in controlling recoil and the “muzzle climb” of the shotgun. Traditional sporting shotguns do not have flash suppressors or compensators. However, while compensators have a limited benefit for shooting sports because they allow the shooter to quickly reacquire the target for a second shot, there is no particular benefit in suppressing muzzle flash in

³⁵ Exhibit 1.

³⁶ *A Collector’s Guide to United States Combat Shotguns* at 156.

sporting shotguns. Therefore, the working group finds that flash suppressors are not a sporting characteristic, while compensators are a sporting feature. However, compensators that, in the opinion of ATF, actually function as flash suppressors are neither particularly suitable nor readily adaptable to sporting purposes.

(4) Magazine over 5 rounds, or a Drum Magazine.

A magazine is an ammunition storage and feeding device that delivers a round into the chamber of the firearm during automatic or semiautomatic firing.³⁷ A magazine is either integral (tube magazine) to the firearm or is removable (box magazine). A drum magazine is a large circular magazine that is generally detachable and is designed to hold a large amount of ammunition.

The 1989 Study recognized that virtually all modern military firearms are designed to accept large, detachable magazines. The 1989 Study noted that this feature provides soldiers with a large ammunition supply and the ability to reload rapidly. The 1998 Study concurred with this and found that, for rifles, the ability to accept a detachable large capacity magazine was not a sporting feature. The majority of shotguns on the market today contain an integral “tube” magazine. However, certain shotguns utilize removable box magazine like those commonly used for rifles.³⁸

In regard to sporting purposes, the working group found no appreciable difference between integral tube magazines and removable box magazines. Each type allowed for rapid loading, reloading, and firing of ammunition. For example, “speed loaders” are available for shotguns with tube-type magazines. These speed loaders are designed to be preloaded with shotgun shells and can reload a shotgun with a tube-type magazine in less time than it takes to change a detachable magazine.

However, the working group determined that magazines capable of holding large amounts of ammunition, regardless of type, are particularly designed and most suitable for military and law enforcement applications. The majority of state hunting laws restrict shotguns to no more than 5 rounds.³⁹ This is justifiable because those engaged in sports shooting events are not engaging in potentially hostile or confrontational situations, and therefore do not require the large amount of immediately available ammunition, as do military service members and police officers.

Finally, drum magazines are substantially wider and have considerably more bulk than standard clip-type magazines. They are cumbersome and, when attached to the shotgun, make it more difficult for a hunter to engage multiple small moving targets. Further, drum magazines are generally designed to contain more than 5 rounds. Some contain as many as 20 or more

³⁷ Steindler's New Firearms Dictionary at 164.

³⁸ See Collector's Guide to United States Combat Shotguns at 156-7, noting that early combat shotguns were criticized because of their limited magazine capacity and time consuming loading methods.

³⁹ Exhibit 2.

rounds.⁴⁰ While such magazines may have a military or law enforcement application, the working group determined that they are not useful for any generally recognized sporting purpose. These types of magazines are unlawful to use for hunting in most states, and their possession and manufacture are even prohibited or restricted in some states.⁴¹

(5) Grenade Launcher Mount.

Grenade launchers are incorporated into military firearms to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the firearm either by screws or clamps. Grenade launchers have a particular military application and are not currently used for sporting purposes.

(6) Integrated Rail Systems.⁴²

This refers to a mounting rail system for small arms upon which firearm accessories and features may be attached. This includes scopes, sights, and other features, but may also include accessories or features with no sporting purpose, including flashlights, foregrips, and bipods. Rails on the sides and underside of shotguns—including any accessory mount—facilitate installation of certain features lacking any sporting purpose. However, receiver rails that are installed on the top of the receiver and barrel are readily adaptable to sporting purposes because this facilitates installation of optical or other sights.

(7) Light Enhancing Devices.

Shotguns are generally configured with either bead sights, iron sights or optical sights, depending on whether a particular sporting purpose requires the shotgun to be pointed or aimed.⁴³ Bead sights allow a shooter to “point” at and engage moving targets at a short distance with numerous small projectiles, including birds, trap, skeet and sporting clays. Iron and optical sights are used when a shooter, firing a slug, must “aim” a shotgun at a target, including deer, bear and turkeys.⁴⁴ Conversely, many military firearms are equipped with sighting devices that utilize available light to facilitate night vision capabilities. Devices or optics that allow illumination of a target in low-light conditions are generally for military and law enforcement purposes and are not typically found on sporting shotguns because it is generally illegal to hunt at night.

⁴⁰ Exhibit 3

⁴¹ See, e.g., Cal Pen Code § 12020; N.J. Stat. § 2C:39-9.

⁴² Exhibit 4

⁴³ NRA Firearms Sourcebook at 178.

⁴⁴ Id.

(8) Excessive Weight.⁴⁵

Sporting shotguns, 12 gauge and smaller, are lightweight (generally less than 10 pounds fully assembled),⁴⁶ and are balanced and maneuverable. This aids sportsmen by allowing them to carry the firearm over long distances and rapidly engage a target. Unlike sporting shotguns, military firearms are larger, heavier, and generally more rugged. This design allows the shotguns to withstand more abuse in combat situations.

(9) Excessive Bulk.⁴⁷

Sporting shotguns are generally no more than 3 inches in width or more than 4 inches in depth. This size allows sporting shotguns to be sufficiently maneuverable in allowing hunters to rapidly engage targets. Certain combat shotguns may be larger for increased durability or to withstand the stress of automatic fire. The bulk refers to the fully assembled shotgun, but does not include magazines or accessories such as scopes or sights that are used on the shotgun. For both width and depth, shotguns are measured at the widest points of the action or housing on a line that is perpendicular to the center line of the bore. Depth refers to the distance from the top plane of the shotgun to the bottom plane of the shotgun. Width refers to the length of the top or bottom plane of the firearm and measures the distance between the sides of the shotgun. Neither measurement includes the shoulder stock on traditional sporting shotgun designs.

(10) Forward Pistol Grip or Other Protruding Part Designed or Used for Gripping the Shotgun with the Shooter's Extended Hand.⁴⁸

While sporting shotguns differ in the style of shoulder stock, they are remarkably similar in fore-end design.⁴⁹ Generally, sporting shotguns have a foregrip with which the shooter's forward hand steadies and aims the shotgun. Recently, however, some shooters have started attaching forward pistol grips to shotguns. These forward pistol grips are often used on tactical firearms and are attached to those firearms using the integrated rail system. The ergonomic design allows for continued accuracy during sustained shooting over long periods of time. This feature offers little advantage to the sportsman. Note, however, that the working group believes that pistol grips for the trigger hand are prevalent on shotguns and are therefore generally recognized as particularly suitable for sporting purposes.⁵⁰

While the features listed above are the most common non-sporting shotgun features, the working group recognizes that other features, designs, or characteristics may exist. Prior to importation, ATF will classify these shotguns based upon the requirements of section 925(d)(3). The working

⁴⁵ See generally Gilbert.

⁴⁶ Shotgun Encyclopedia 2001 at 264.

⁴⁷ Exhibit 5.

⁴⁸ Exhibit 6.

⁴⁹ See Exhibit 1. See generally NRA Firearms Sourcebook at 121-2.

⁵⁰ See Exhibit 1.

group expects the continued application of unique features and designs to shotguns that may include features or designs based upon traditional police or military tactical rifles. However, even if a shotgun does not have one of the features listed above, it may be considered “sporting” only if it meets the statutory requirements under section 925(d)(3). Further, the simple fact that a military firearm or feature *may* be used for a generally recognized sporting purposes is not sufficient to support a determination that it is sporting under 925(d)(3). Therefore, as required by section 925(d)(3), in future sporting classifications for shotguns, ATF will classify the shotgun as sporting only if there is evidence that its features or design characteristics are generally recognized as particularly suitable for or readily adaptable to generally recognized sporting purposes.

The fact that a firearm or feature was initially designed for military or tactical applications, including offensive or defensive combat, may indicate that it is not a sporting firearm. This may be overcome by evidence that the particular shotgun or feature has been so regularly used by sportsmen that it is generally recognized as particularly suitable for or readily adaptable to sporting purposes. Such evidence may include marketing, industry literature and consumer articles, scholarly and historical publications, military publications, the existence of State and local statutes and regulations limiting use of the shotgun or features for sporting purposes, and the overall use and the popularity of such features or designs for sporting purposes according to hunting guides, shooting magazines, State game commissioners, organized competitive hunting and shooting groups, law enforcement agencies or organizations, industry members and trade associations, and interest and information groups. Conversely, a determination that the shotgun or feature was originally designed as an improvement or innovation to an existing sporting shotgun design or feature will serve as evidence that the shotgun is sporting under section 925(d)(3). However, any new design or feature must still satisfy the sporting suitability test under section 925(d)(3) as outlined above.

The Attorney General and ATF are not limited to these factors and therefore may consider any other factor determined to be relevant in making this determination. The working group recognizes the difficulty in applying this standard but acknowledges that Congress specifically intended that the Attorney General perform this function. Therefore, the working group recommends that sporting determinations for shotguns not specifically addressed by this study be reviewed by a panel pursuant to ATF orders, policies and procedures, as appropriate.

Conclusion

The purpose of section 925(d)(3) is to provide a limited exception to the general prohibition on the importation of firearms without placing “any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms...”⁵¹ Our determinations will in no way preclude the importation of true sporting shotguns. While it will certainly prevent the importation of certain shotguns, we believe that

⁵¹ 90 P.L. 351 (1968).

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 20 of 35

- 14 -

those shotguns containing the enumerated features cannot be fairly characterized as “sporting” shotguns under the statute. Therefore, it is the recommendation of the working group that shotguns with any of the characteristics or features listed above not be authorized for importation.

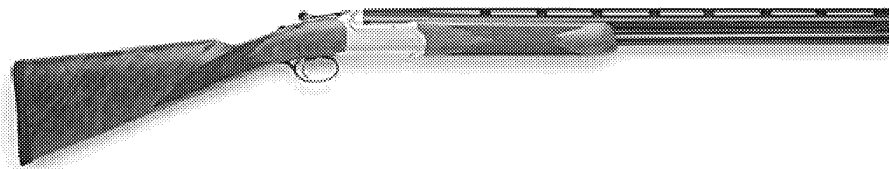
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Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 21 of 35

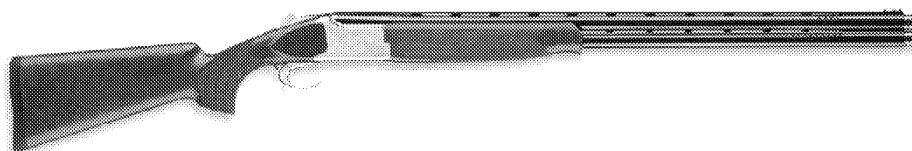
Shotgun Stock Style Comparison

Exhibit 1

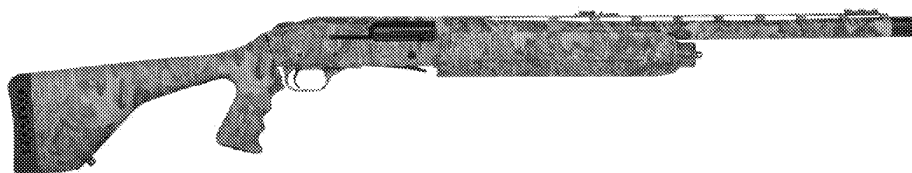
“Straight” or “English” style stock (Ruger Red Label):



“Pistol grip” style stock (Browning Citori):



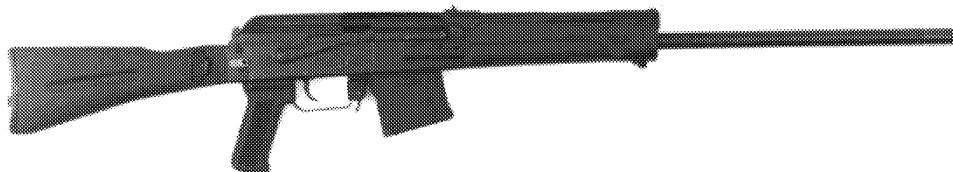
“Pistol grip” style stock (Mossberg 935 Magnum Turkey):



“Thumbhole” style stock (Remington SP-10):



Stock with Separate Pistol Grip



AG00003783

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 22 of 35

Hunting Statutes by State

Exhibit 2

State	Gauge	Mag Restriction / plugged with one piece filler requiring disassembly of gun for removal	Attachments	Semi-Auto	Other
Alabama	10 gauge or smaller;	(Species specific) 3 shells			1
Alaska	10 gauge or smaller				
Arizona	10 gauge or smaller	5 shells			
Arkansas	≤ 10 gauge; some zones ≥ .410; ≥ 20 gauge for bear	(Species specific) 3 shells			
California	≤ 10 gauge; Up to 12 gauge in some areas	(Species specific) 3 shells			
Colorado	≥ 20 gauge; Game Mammals ≤ 10 gauge	3 shells			
Connecticut	≤ 10-gauge	(Species specific) 3 shells	telescopic sights		
Delaware	20, 16, 12, 10 gauge	3 shells	Muzzleloaders may be equipped with scopes		2
Florida	Muzzleloading firing ≥ 2 balls ≥ 20-gauge; Migratory birds ≤ 10-gauge; opossums - single-shot .41 -gauge shotguns	(Species specific) 3 shells			
Georgia	≥ 20-gauge; Waterfowl ≤ 10-gauge	5 shells	Scopes are legal		
Hawaii	≤ 10 gauge	(Species specific) 3 shells			
Idaho			some scopes allowed		3
Illinois	20 - 10 gauge; no .410 or 28 gauge allowed	3 shells			
Indiana		(Species specific) 3 shells	Laser sights are legal		

AG00003784

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 23 of 35
Hunting Statutes by State

Exhibit 2

Iowa	10-, 12-, 16-, and 20-gauge			
Kansas	≥ 20 gauge; ≤ 10 gauge,	(Species specific) 3 shells		
Kentucky	up to and including 10-gauge, includes .410-	(Species specific) 3 shells	Telescopic sights (scopes)	
Louisiana	≤ 10 gauge	3 shells	Nuisance Animals; infrared, laser sighting devices, or night vision devices	
Maine	10 - 20 gauge	(Species specific) 3 shells	may have any type of sights, including scopes	Auto-loading illegal if hold more than 6 cartridges
Maryland	Muzzle loading ≥ 10 gauge ; Shotgun ≤ 10-gauge	(Species specific) 3 shells	may use a telescopic sight on muzzle loading firearm	
Massachusetts	≤ 10 gauge	(Species specific) 3 shells		
Michigan	any gauge	(Species specific) 3 shells		Illegal: semi-automatic holding > 6 shells in barrel and magazine combined
Minnesota	≤ 10 gauge	(Species specific) 3 shells		
Mississippi	any gauge	(Species specific) 3 shells	Scopes allowed on primitive weapons	
Missouri	≤ 10 gauge	(Species specific) 3 shells		
Montana	≤ 10 gauge	(Species specific) 3 shells		
Nebraska	≥ 20 gauge	(Species specific) 3 shells		Illegal: semi-automatic holding > 6 shells in barrel and magazine combined
Nevada	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells		
New Hampshire	10 - 20 gauge	(Species specific) 3 shells		
New Jersey	≤ 10 gauge; ≥ 20 gauge; or .410 caliber	(Species specific) 3 shells	Require adjustable open iron, peep sight or scope affixed if hunting with slugs. Telescopic sights Permitted	
New Mexico	≥ 28 gauge, ≤ 10 gauge	(Species specific) 3 shells		
New York	Big game ≥ 20 gauge		scopes allowed	No semi-automatic firearm with a capacity to hold more than 6 rounds

AG00003785

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 24 of 35
Hunting Statutes by State

Exhibit 2

North Carolina	≤ 10 gauge	(Species specific) 3 shells	
North Dakota	≥ 410 gauge; no ≤ 10 gauge	3 shells (repealed for migratory birds)	
Ohio	≤ 10 gauge	(Species specific) 3 shells	
Oklahoma	≤ 10 gauge	(Species specific) 3 shells	
Oregon	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells	Scopes (permanent and detachable), and sights allowed for visually impaired
Pennsylvania	≤ 10 gauge; ≥ 12 gauge	(Species specific) 3 shells	
Rhode Island	10, 12, 16, or 20-gauge	5 shells	
South Carolina		(Species specific) 3 shells	
South Dakota	(Species specific) ≤ 10 gauge	5 shells	No auto-loading firearm holding > 6 cartridges
Tennessee	Turkey: ≥ 28 gauge	(Species specific) 3 shells	May be equipped with sighting devices
Texas	≤ 10 gauge	(Species specific) 3 shells	scoping or laser sighting devices used by disabled hunters
Utah	≤ 10 gauge; ≥ 20 gauge	(Species specific) 3 shells	
Vermont	≥ 12 gauge	(Species specific) 3 shells	
Virginia	≤ 10 gauge	(Species specific) 3 shells	
Washington	≤ 10 gauge	(Species specific) 3 shells	
West Virginia			
Wisconsin	10, 12, 16, 20 and 28 gauge; no .410 shotgun for deer/bear	(Species specific) 3 shells	
Wyoming			
1	Shotgun/rifle combinations (drilling) permitted		
2	large game training course - Students in optional proficiency qualification bring their own pre-zeroed, ≥ .243 , scoped shotgun		
3	no firearm that, in combination with a scope, sling and/or any attachments, weighs more than 16 pounds		
4	no relevant restrictive laws concerning shotguns		

4

AG00003786

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 25 of 35

General Firearm Statutes by State

Exhibit 2

State	Source	Semi-Auto Restrictions	Attachments	Prohibited* (in addition to possession of short-barrel or sawed-off shotguns by non-authorized persons, e.g., law enforcement officers for official duty purposes)
Alabama	Alabama Code, title 13:			
Alaska	Alaska Statutes 11.61.200.(h)			
Arizona	Arizona Rev. Statutes 13-3101.8.	single shot	silencer prohibited	
Arkansas	Arkansas Code Title 5, Chapter 73.			
California	California Penal Code, Part 4 12276. and San Diego Municipal Code 53 31.	San Diego includes under "assault weapon," any shotgun with a magazine capacity of more than 6 rounds		"Assault weapons": Franchi SPAS 12 and LAW 12; Striker 12; Streetsweeper type S/S Inc. ; semiautomatic shotguns having both a folding or telescoping stock and a pistol grip protruding conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip; semiautomatic shotguns capable of accepting a detachable magazine; or shotguns with a revolving cylinder.
Colorado	2 CCR 406-203			
Connecticut	Connecticut Gen. Statutes 53-202a.			"Assault weapons": Steyr AUG; Street Sweeper and Striker 12 revolving cylinder shotguns
D.C.	7-2501.01.			

AG00003787

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 26 of 35
General Firearm Statutes by State

Exhibit 2

Delaware	7.I.§ 711.	7.I.§ 711. Hunting with automatic-loading gun prohibited; penalty (a) No person shall hunt for game birds or game animals in this State, except as authorized by state-sanctioned federal depredation/conservation orders for selected waterfowl species, with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than 3 shells, the magazine of which has not been cut off or plugged with a filler incapable of removal through the loading end thereof, so as to reduce the capacity of said gun to not more than 3 shells at 1 time, in the magazine and chamber combined. (b) Whoever violates this section shall be guilty of a class C environmental misdemeanor. (c) Having in one's possession, while in the act of hunting game birds or game animals, a gun that will hold more than 3 shells at one time in the magazine and chamber combined, except as authorized in subsection (a) of this section, shall be prima facie evidence of violation of this section.
Florida	Florida statutes, Title XLVI 790.001.	
Georgia		
Hawaii	Hawaii Rev. Statutes, Title 10., 134-8.	silencer prohibited
Idaho	Idaho Code, 18-3318.	
Illinois	Code of Ordinances, City of Aurora 29-43. Aurora includes under "assault weapon," any shotgun with a magazine capacity of more than 5 rounds	"Assault weapons": Street Sweeper and Striker 12 revolving cylinder shotguns or semiautomatic shotguns with either a fixed magazine with a capacity over 5 rounds or an ability to accept a detachable magazine and has at least a folding / telescoping stock or a pistol grip that protrudes beneath the action of firearm and which is separate and apart from stock

AG00003788

General Firearm Statutes by State

Exhibit 2

Indiana	Indiana Code 35-47-1-10. and Municipal Code of the City of South Bend 13-95.	South Bend under "assault weapon" firearms which have threads, lugs, or other characteristics designed for direct attachment of a silencer, bayonet, flash suppressor, or folding stock; as well as any detachable magazine, drum, belt, feed strip, or similar device which can be readily made to accept more than 15. rounds	South Bend includes under "assault weapon," any shotgun with a magazine capacity of more than 9 rounds
Iowa	Iowa Code, Title XVI. 724.1		Includes as an offensive weapon, "a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger"
Kansas			
Kentucky	Kentucky Revised Statutes- 150.360		
Louisiana	Louisiana RS 56:116.1		
Maine	Maine Revised Statutes 12.13.4.915.4. §11214. F.		
Maryland	Maryland Code 5-101.		"Assault weapons": F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun; Steyr-AUG-SA semi-auto; Holmes model 88 shotgun; Mossberg model 500 Bullpup assault shotgun; Street sweeper assault type shotgun; Striker 12 assault shotgun in all formats; Daewoo USAS 12 semi-auto shotgun

AG00003789

General Firearm Statutes by State

Exhibit 2

Massachusetts	Massachusetts Gen L. 140.121.	under "assault weapon": any shotgun with (fixed or detachable) magazine capacity of more than 5 rounds	"Assault weapons": revolving cylinder shotguns, e.g., Street Sweeper and Striker 12; also "Large capacity weapon" includes any semiautomatic shotgun fixed with large capacity feeding device (or capable of accepting such), that uses a rotating cylinder capable of accepting more than 5 shells
Michigan	II.2.1. (2)		
Minnesota	Minnesota Statutes 624.711		"Assault weapons": Street Sweeper and Striker-12 revolving cylinder shotgun types as well as USAS-12 semiautomatic shotgun type
Mississippi	Mississippi Code 97-37-1.	silencer prohibited	
Missouri	Code of State Regulations 10-7.410(1)(G)		
Montana			
Nebraska	Nebraska Administrative Code Title 163 Chapter 4 001.		
Nevada	Nevada Revised Statutes 503.150 1.		
New Hampshire			
New Jersey	New Jersey Statutes 23:4-13. and 23:4-44. and New Jersey Rev. Statutes 2C39-1.w.	magazine capacity of no more than 5 rounds	"Assault weapons": any shotgun with a revolving cylinder, e.g. "Street Sweeper" or "Striker 12" Franchi SPAS 12 and LAW 12 shotguns or USAS 12 semi-automatic type shotgun; also any semi-automatic shotgun with either a magazine capacity exceeding 6 rounds, a pistol grip, or a folding stock
New Mexico	New Mexico Administrative Code 19.31.6.7H, 19.31.11.10N, 19.31.13.10M. and 19.31.17.10N.		

AG00003790

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 29 of 35

General Firearm Statutes by State

Exhibit 2

New York	New York Consolidated Laws 265.00, 22, and Code of the City of Buffalo 1801B.	magazine capacity of no more than 5 rounds	sighting device making a target visible at night may classify a shotgun as an assault weapon	"Assault weapons": Any semiautomatic shotgun with at least two of the following: folding or telescoping stock; pistol grip that protrudes conspicuously beneath the action of the weapon; fixed magazine capacity in excess of five rounds; an ability to accept a detachable magazine; or any revolving cylinder shotguns, e.g., Street Sweeper and Striker 12; Buffalo 1801B. Assault Weapon: (2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has: (a) A flash suppressor attached to the weapon reducing muzzle flash; (c) A sighting device making a target visible at night; (d) A barrel jacket surrounding all or a portion of the barrel, to dissipate heat therefrom; or (e) A multi-burst trigger activator. (3) Any stockless pistol grip shotgun.
North Carolina	North Carolina Gen. Statutes 14-288.8		silencer prohibited	
North Dakota	North Dakota Century Code 20.1-01-09, Section 20.1-04-10, SHOTGUN SHELL-HOLDING CAPACITY RESTRICTION, repealed/eliminated			
Ohio	Ohio Rev. Code 2923.11, and Columbus City Codes 2323.11.	magazine capacity of no more than 5 rounds		semiautomatic shotgun that was originally designed with or has a fixed magazine or detachable magazine with a capacity of more than five rounds. Columbus includes under "Assault weapon" any semi-automatic shotgun with two or more of the following: pistol grip that protrudes conspicuously beneath the receiver of the weapon; folding, telescoping or thumbhole stock; fixed magazine capacity in excess of 5 standard 2-3/4, or longer, rounds; or ability to accept a detachable magazine; also any shotgun with revolving cylinder
Oklahoma				
Oregon	Oregon Rev. Statutes 166.272.		silencer prohibited	
Pennsylvania	Title 34 Sec. 2308. (a)(4) and (b)(1)			
Rhode Island	Rule 7, Part III, 3.3 and 3.4			
South Carolina	SECTION 50-11-310. (E) and ARTICLE 3, SUBARTICLE 1. 123-40			

AG00003791

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 30 of 35
General Firearm Statutes by State

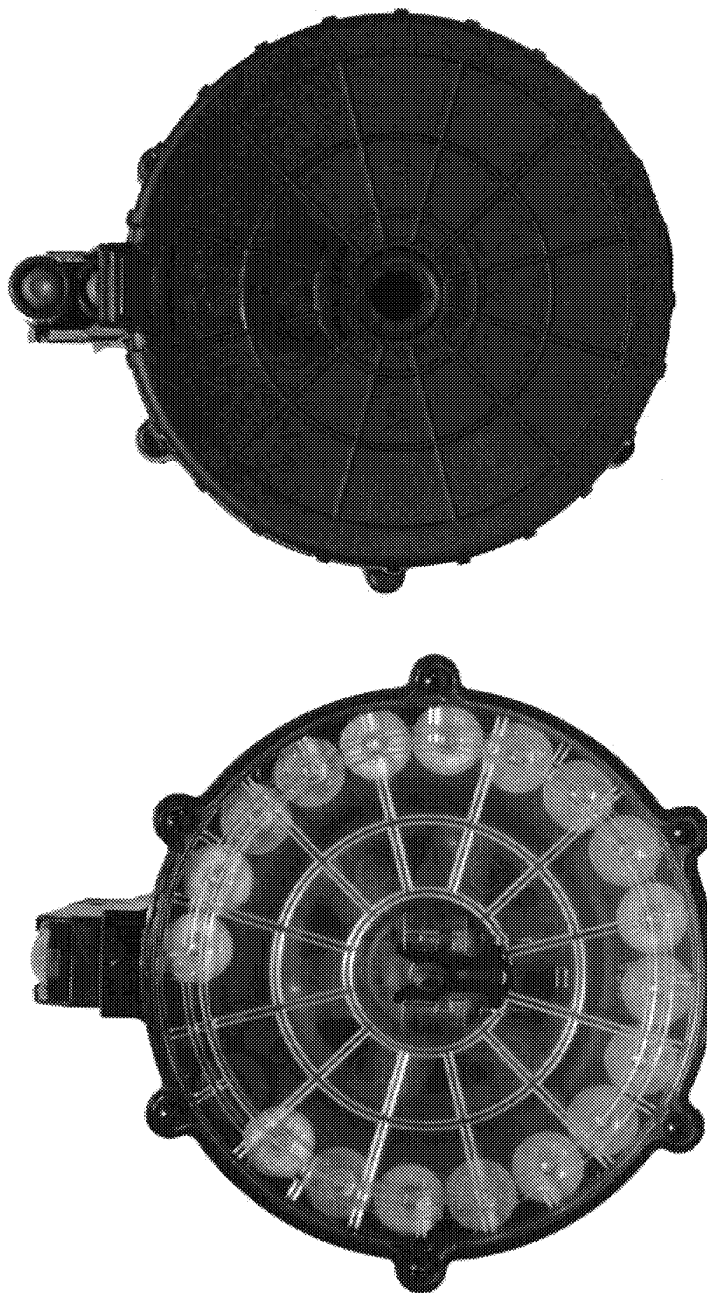
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South Dakota	South Dakota Codified Laws 22,1,2, (8)	silencer prohibited	
Tennessee			
Texas			
Utah	Utah Administrative Code R657-5-9, (1), R657-6-6, (1) and R657-9-7.		
Vermont			
Virginia	Virginia Code 18.2-308.	magazine capacity no more than 7 rounds (not applicable for hunting or sport shooting)	"Assault weapons": Striker 12's commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding twelve shotgun shells prohibited
Washington	Washington Administrative Code 232-12- 047		
West Virginia	West Virginia statute 8-12-5a.		
Wisconsin	Wisconsin Administrative Code -- NR 10.11 and NR 10.12		
Wyoming	Wyoming Statutes, Article 3, Rifles and Shotguns [Repealed] and 23-3-112.	silencer prohibited	

AG00003792

Exhibit 3

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 31 of 35
Drum Magazine



Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 32 of 35

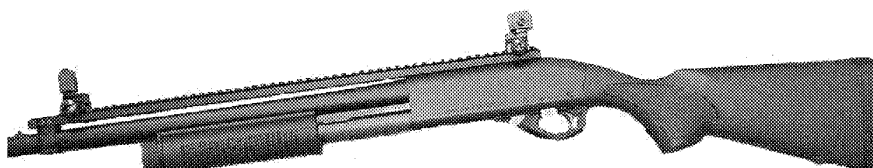
Integrated Rail System

Exhibit 4

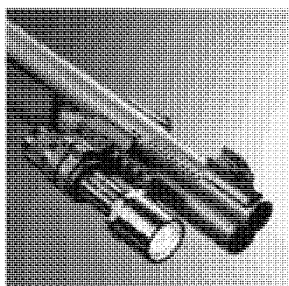
Sporting



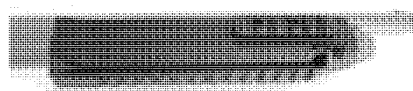
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Non-Sporting



Non-Sporting



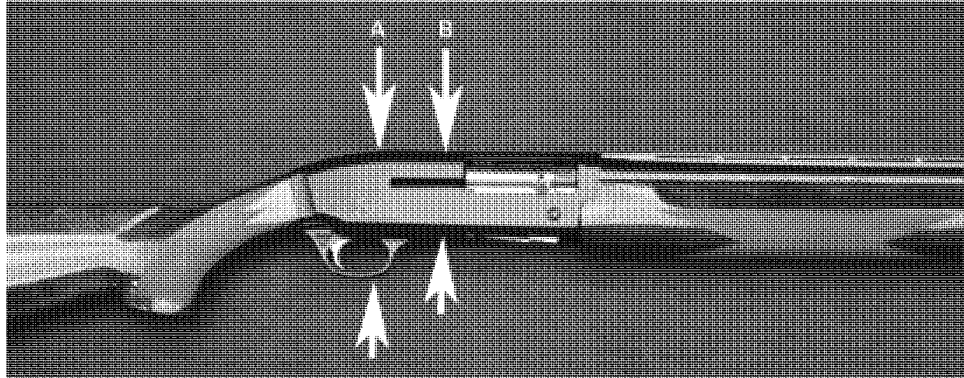
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Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 33 of 35

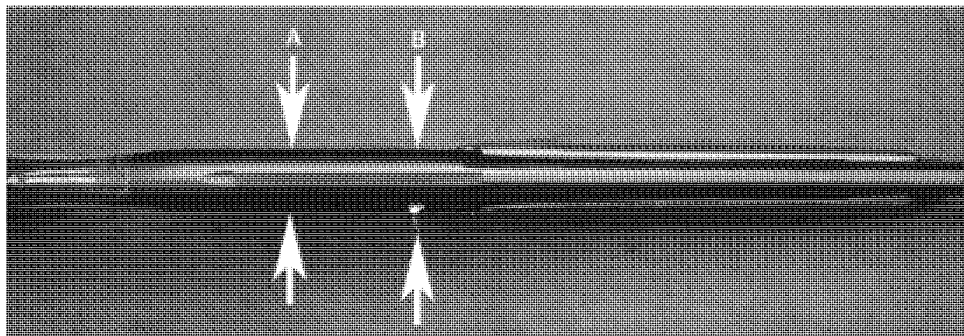
Bulk Measurements

Exhibit 5

Depth refers to the distance from the top plane of the shotgun to the bottom plane of the shotgun. Depth measurement "A" below is INCORRECT; it includes the trigger guard which is not part of the frame or receiver. Depth measurement "B" below is CORRECT; it measures only the depth of the frame or receiver:



Width refers to the length of the top or bottom pane of the firearm and measures the distance between the sides of the shotgun. Width measurement "A" below is CORRECT; it measures only the width of the frame or receiver. Width measurement "B" below is INCORRECT; it includes the charging handle which is not part of the frame or receiver:

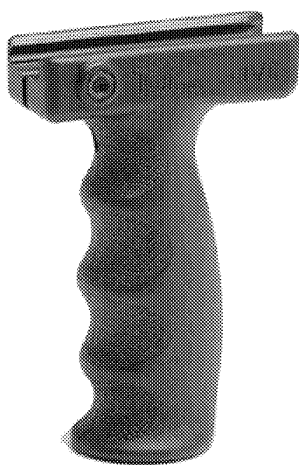


AG00003795

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 34 of 35

Forward Pistol Grip

Exhibit 6



AG00003796

Case 1:13-cv-02841-CCB Document 44-16 Filed 02/14/14 Page 35 of 35

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EXHIBIT 11
TO THE DECLARATION OF JOHN D. ECHEVERRIA



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EXHIBIT 12
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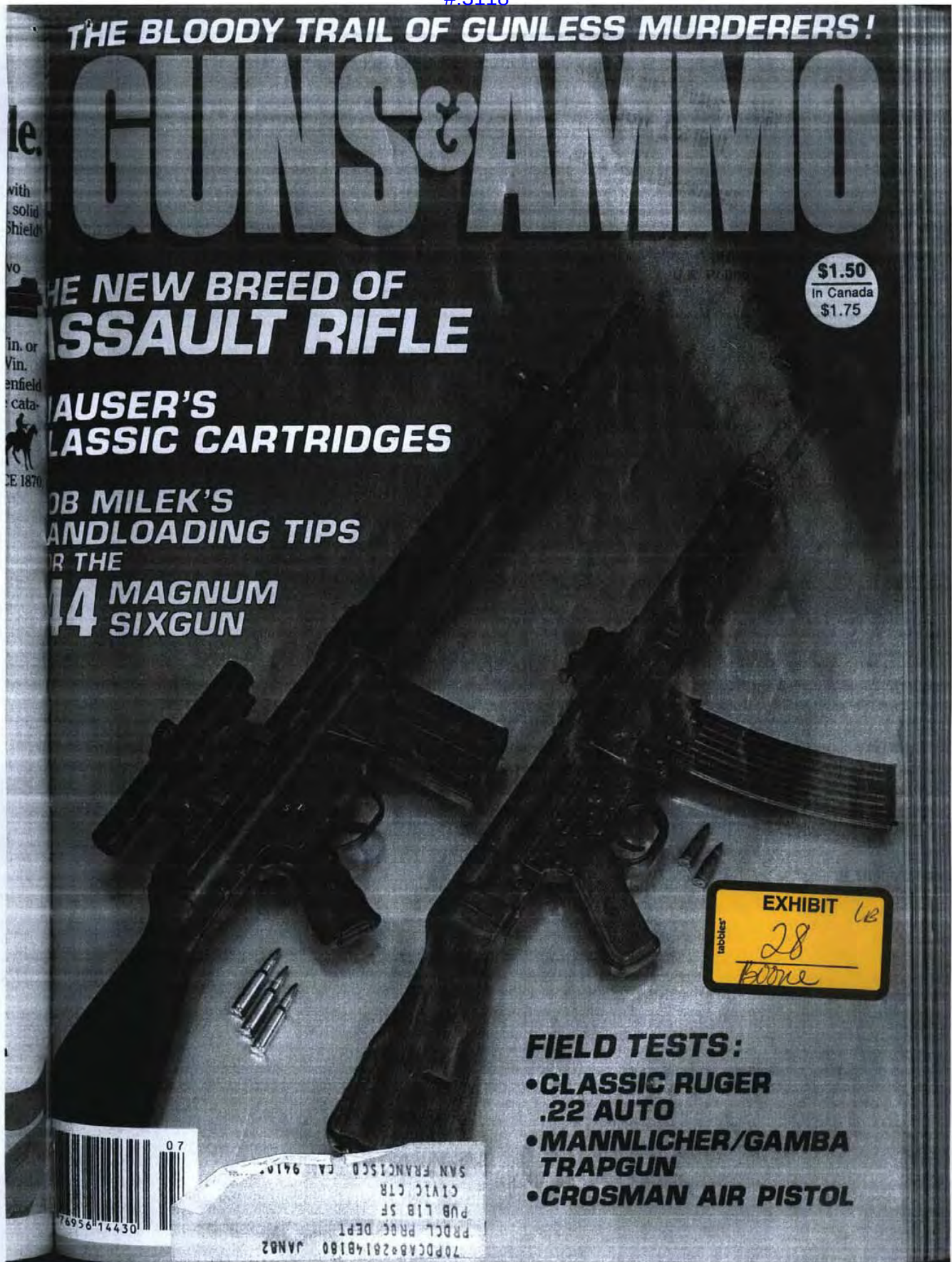
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EXHIBIT 13
TO THE DECLARATION OF JOHN D. ECHEVERRIA



Def. Exhibit 35
Page 001457



The German MP-44 (R), the first of the modern assault rifles, has sired a whole new breed of modern semi-auto sporters such as this Heckler & Koch HK-91 at left. For an in-depth appraisal of these rifles, see page 48. Cover photo by Bob D'Olivo.



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HANDGUNS

Handloading Tips for the .44 Magnum Sixgun: by Bob Milek.....	34
Vintage Loads for Vintage Peacemakers: by Mike Venturino.....	58
The Ruger .22 Automatic: by Dave Arnold.....	68

RIFLES

Tomorrow's State-of-the-Art Sporting Rifle: by Art Blatt.....	48
Personalize Your Rifle with a Custom-Finished Stock: by Jon Sundra.....	62

SHOTGUNS

Mannlicher/Gamba "Edinburgh" Trap Combo: by Art Blatt.....	70
--	----

GENERAL

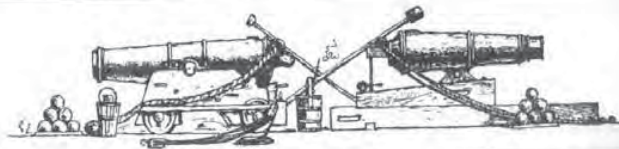
The Rifle Cartridges of Paul Mauser: by John Wootters.....	40
Crosman American Classic Airgun: by Craig Boddington.....	71

RKBA

The Bloody Trail of Gunless Murderers! by Jan Libourel.....	31
---	----

DEPARTMENTS

Washington Report: by Reid Andrews.....	6
Letters.....	8
Gunnnotes: by Elmer Keith, Executive Editor.....	10
Gunsmith: by J.B. Wood.....	22
Gunsmith: by J.B. Wood.....	28
What's New.....	30
Gun-E-Sack: by Jon Sundra.....	38
Black Powder: by Phil Spangenberg.....	44
Reloading: by John Wootters.....	46
Jordan on Handguns: by Bill Jordan.....	67
Hunting Wheels: by John Jelinek.....	96
Classified.....	98
Parting Shot: by Dick Wolff.....	98



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GUNS & AMMO/JULY 1981 5

Def. Exhibit 35
Page 001458

Spawned in the crucible of war a new breed of rifles challenges the legendary Mauser bolt gun as . . .

TOMORROW'S STATE-OF-THE-ART SPORTING RIFLE

By Art Blatt



Colt's AR-15 is among the most popular autoloading rifles. It is chambered for the .223 Remington, which, properly handloaded, is a fine varmint cartridge.

Added firepower cannot be a replacement for proven hunting techniques. Hunters still must use traditional stalking skills and binoculars, even when utilizing an "unconventional" twenty-shot autoloader like this AR-15 from Colt.

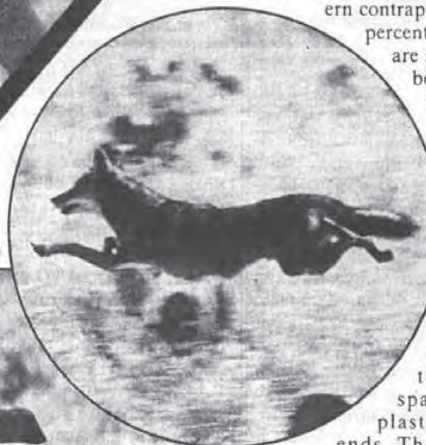


■ You say there's no place for "military-style" arms in the world of sporting firearms? Granted, today's service look-alikes are less stylish and graceful than a Remington Model 700BDL or one of Roy Weatherby's colorful creations; however, these autoloading rifles from around the world are on the brink of revolutionizing the world of rifle shooting.

In 1939, when Oldsmobile first introduced the automatic transmission, auto buffs were very skeptical about this modern contraption. Today, nearly 75 percent of all American cars are so equipped. So it will be the way of autoloading rifles.

Most shooters and veteran riflemen look down their noses at these steel-stamped rifles as remnants from an erector set. The turn-bolt aficionado looks with a great deal of disdain at anybody totting one of these space-age rifles with plastic stocks and fore-ends. The dyed-in-the-wool deer hunter watching his domain being infiltrated by these black and gray guns assumes that these "new generation" hunters are merely fantasizing "war games" and are playing "soldier." How soon we forget.

Practically all of today's "modern" bolt-action rifles can trace their "roots" back to Paul Mauser's development—the fabled Model 98 bolt rifle. Unquestionably, this was the finest *military* turnbolt ever invented. And, how about the American-bred Springfield? How many thousands of these service rifles are still in the hands of "civilian" shooters and hunters? Remington Arms, in 1921 after their mil-





To those purists who state that there's no place in the sporting world for "military"-type rifles—how can we forget that practically all of today's "modern" bolt guns originated from the German 1898 Mauser?

tary contracts had expired for the 1917 Enfield, simply sold off their remaining inventory—to the civilian market—as the Model 30. Thousands of hunters snapped up these rifles, realizing that a piece of ordnance produced to U.S. Government specifications had to be a first-class piece of machinery—and they were right!

So before pooh-pooing these military-type rifles of today and categorizing all who use these guns as people who wear camouflage underwear, let's find out who is purchasing these much-maligned rifles, and what they are using them for.

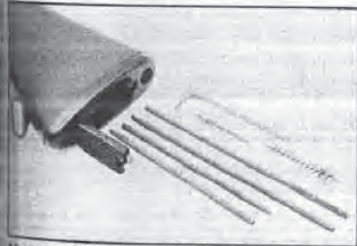
We asked Barry Kahn, owner of B&B Sales in North Hollywood, California—who is a major gun dealer in all types of military look-alikes—just who is snapping up these rifles in huge quantities. We'd half expected his answer to be a segment from the "cult of preachers of doom." To our surprise Barry informed us that those



The Colt AR-15 can provide the hunter with better accuracy than he'd imagine, as this five-shot, 100 yard group is a little under two inches.

purchasing these "assault"-type rifles are from all walks of life and income groups. Although relatively high-priced—compared to typical sporting rifles—FN-LARs, H&Ks and Colt AR-15s are equally divided among doctors, lawyers, truck drivers and businessmen—a typical cross section of shooters everywhere.

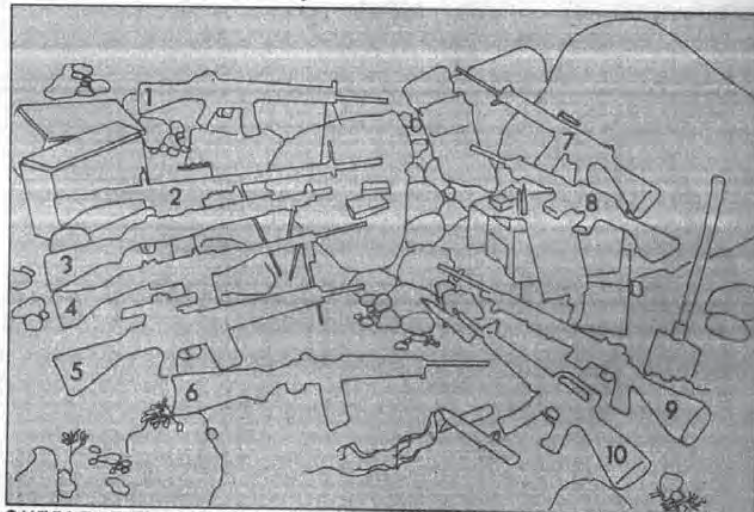
To back up Barry Kahn's claim, we went to various rifle ranges and "plinking palaces" around Southern California to seek out and talk to owners of these ultra-modern rifles. We talked to benchrest shooters using the Armalite AR-180 chambered for the .223 Remington cartridge. We asked them why they bought their AR-180s and what they used them for. To a man, they all stated that the AR-180 was merely an addition to their existing battery of "sporting" rifles. Sure, there was a secondary reason and—they purchased a bit of military history—after all, the AR-180 was developed from the military M-16 (full-auto version of the Colt AR-15).



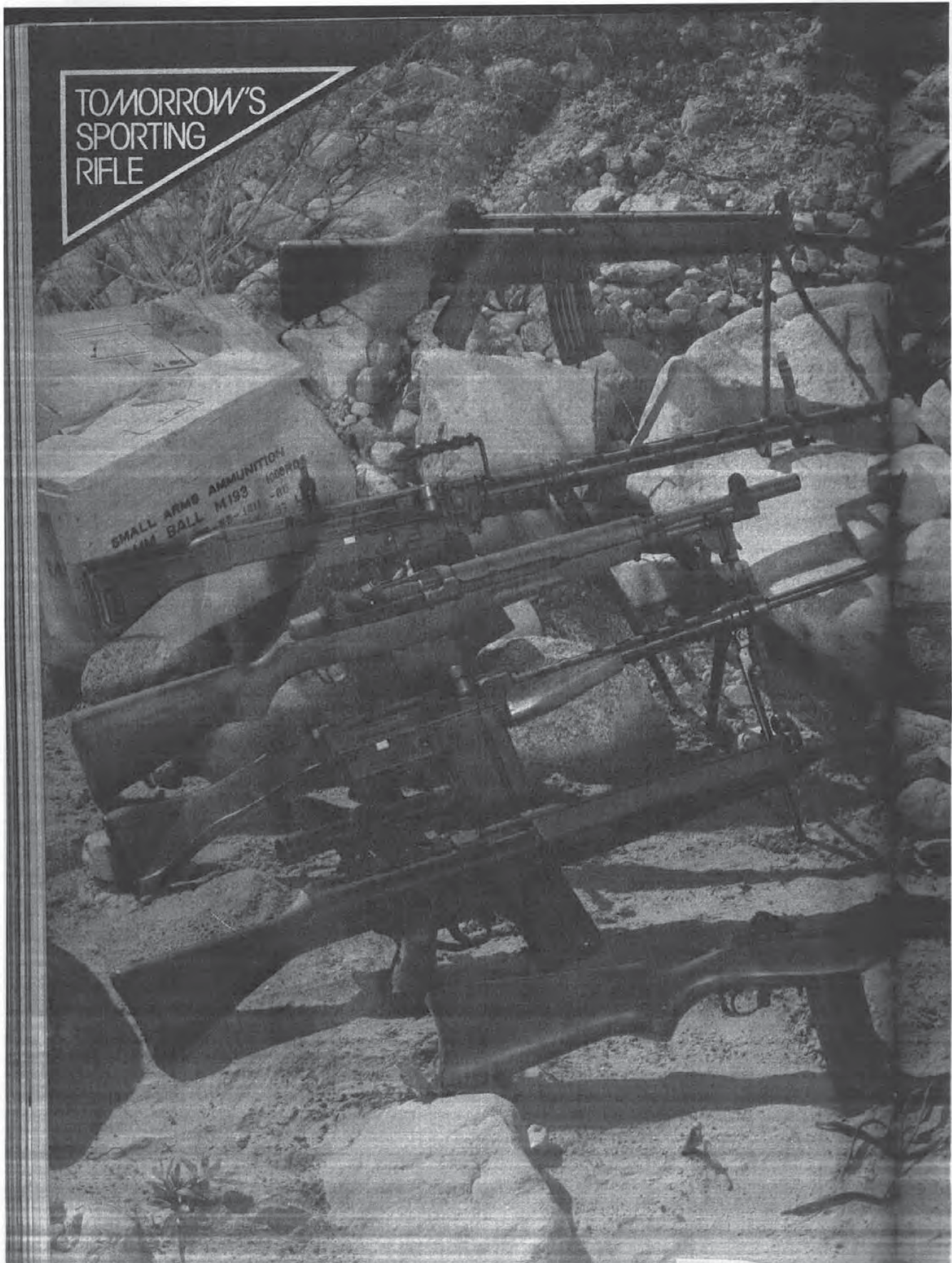
Nestled inside the stock of the AR-15 is a complete cleaning kit that includes bore and chamber brushes.



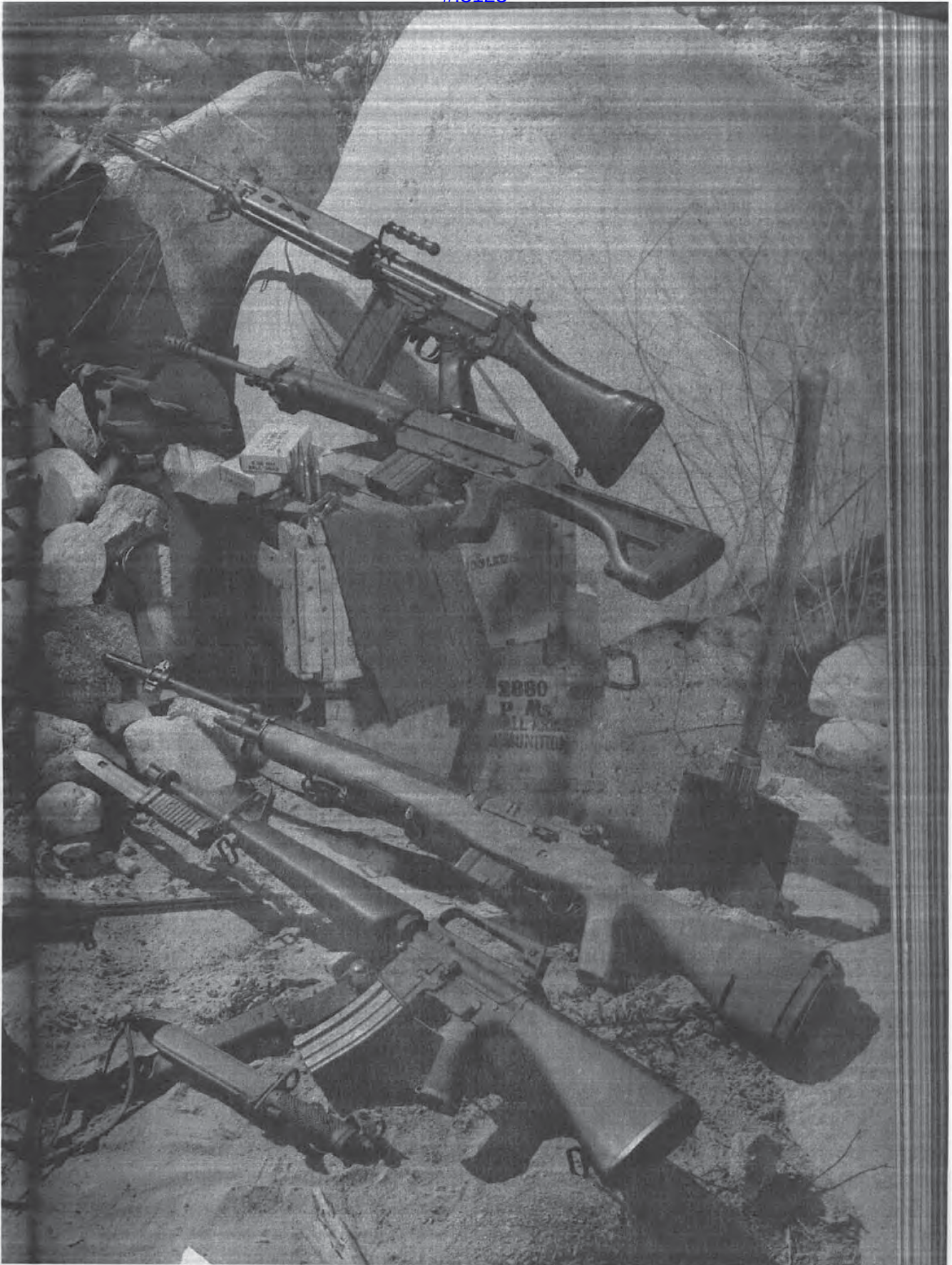
Weaver's Quick-Point in a B-Square mount turns the AR-15 into an excellent combo for elusive "jacks."



OVERLEAF: Today's selective-fire military rifles have given rise to a number of semi-auto sporters, either directly adapted from, or inspired by, these military rifles. The sampling shown here includes: (1) Heckler & Koch HK-93 .223 Rem. (2) SIG PE 7.5x55 mm (3) Beretta BM 62 .308 WCF (4) SIG AMT .308 (5) Heckler & Koch HK-91 .308 (6) Ruger Mini-14 .223 (7) FN-FAL (LAR) .308 (8) Australian Leader .223 (9) Springfield Armory M1A in .308 with combat-styled stock (10) Colt AR-15 in .223 Remington.



Def. Exhibit 35
Page 001461



Def. Exhibit 35
Page 001462

TOMORROW'S SPORTING RIFLE

All of these military-type rifles chambered for the .223 Remington round are certainly sporters in their own right. Used for long-range varminting, especially at a galloping coyote going uphill some 300 yards distant, these rifles enable the hunter to make instant corrections on this elusive target. Turn-bolt gunners wouldn't



This Mini-14 replacement stock has a hand-actuated "slide" action that can quickly clear any malfunctions.

B-Square offers a wide variety of scope mounts; this version for the Ruger Mini-14 is easily bolted on.

have a chance under these circumstances, but an autoloading-armed rifleman greatly increases his odds of hitting a running target.

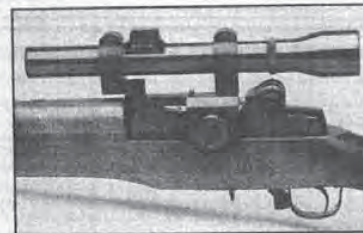
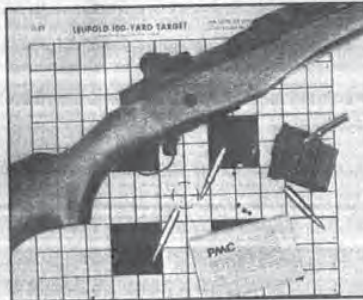
We also interviewed many owners of FN-LARs (FAL), Springfield MIAs, Beretta Model 62s and H&K 91s. All of these quality arms are chambered for the potent .308 Winchester cartridge. Long known for its inherent accuracy, this NATO-inspired round is truly a versatile and magnificent cartridge. Nearly as powerful as the tried-and-true .30-06 Springfield, the .308's shorter overall length and lighter overall weight has proved itself in military conflict, benchrest shooting, and recently chambered in handguns, for Metallic Silhouette shooting.

What do we call this special breed of rifles? When do they lose their military connotation and stand on their own name or marque? We don't know when the Colt Model 1911 shed its military stigma nor when the Garand and .30 carbine were elevated to collector's status. But all of these military autoloading rifles have unique features and are capable of double or even triple-duty.

Let's take a closer look at some of them and see why they offer the sportsman/



There are a gaggle of accessories for Ruger's Mini-14, including this plastic, folding replacement stock.



Magazines of various capacities are available for the Mini-14, ranging from live-shot mags to 30-rounders.

The .223 PMC ammunition we used in this test proved to be very accurate and dependable in all the test guns.

could pass the gruelling and exhaustive tests that all of these rifles must brush aside easily? Not many. We doubt that most popular autoloading "sporting rifles" could shoot two-inch groups at 100 yards after a rapid-firing session of 500 rounds—the H&K 91 will. With minimal care, any of these military-type rifles will outlast, and often outshoot, a wide variety of "sporting rifles." H&K recommends

hunter/shooter more features—dollar for dollar—than most "sporting rifles." Aesthetically, we'd have to rate most of these pistol-gripped guns a four on a scale of ten. None of them has the sleek styling of a Mannlicher-style carbine. The mini-wood stocks appear to be remnants off a school desk. They cannot be described as having a brightly polished blued look. But, as with all mechanical contrivances, form follows function and to a "gun" all of these autoloaders share a common adjective—reliable. How many civilian rifles



The FN-LAR (FAL) in 7.62 NATO is perhaps the most accurate (and expensive) rifle of its kind. With the iron sights we were able to fire groups that measured under two inches at the customary 100-yard range.

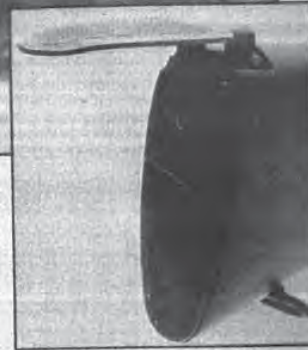
the barrel on their Model 91 be re-used after 75,000 rounds! Typically, most hunting or varmint barrels are usually shot-out after seven to 10,000 rounds. Now's that for longevity?

Disassembly of these rifles, when one knows how, is exceedingly simple. Usually the only tool required to dissect a rifle completely is the tip of a cartridge. Pins and spring-loaded latches predominate over traditional screws and hex-nuts. Another plus is parts interchangeability—the FN-LAR is the issue rifle for over 90 countries in the world. One would stand a better chance of finding a firing pin for one in Mozambique than a Winchester Model 70 floorplate in Venezuela. Critical tolerances are held on all these rifles and one could easily make up a complete rifle from a parts bin—and be assured that it would function properly and shoot accurately.

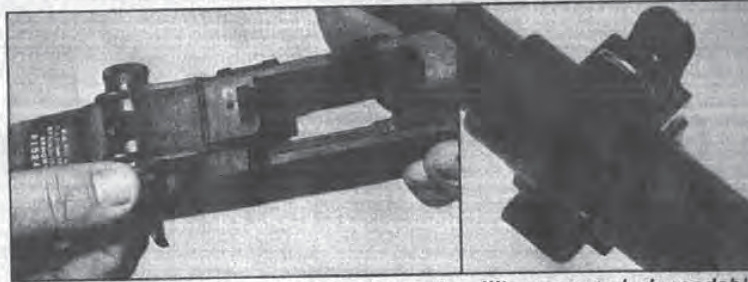
The Swiss SIGs, both the AMT (.308) and the PE (7.5 Swiss) boast integral fold-



Springfield Armory's M1A chambered for the 7.62 NATO (.308 Winchester) cartridge is a prized piece and is eagerly sought by both shooters and military equipment enthusiasts. The "combat"-type stock features a hinged buttplate which helps stabilize the rifle—especially when used in the prone position. A 20-round magazine is standard although five and 10 round magazines are available.



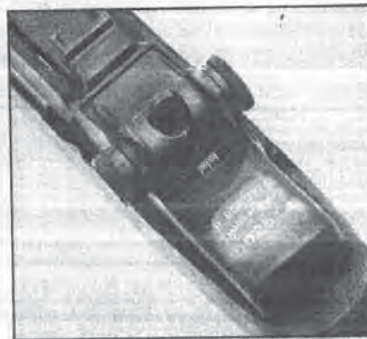
The Beretta Model 62 is a near-copy of the old Garand and is chambered for the .308 Winchester cartridge.



The Beretta Model 62's sights are typically military—rugged, dependable and adjustable. The rear can be adjusted from 100 through 500 meters and the "wings" on the front sight protects the blade from bumps and bruises.



Like its predecessor—the Garand—straight-line feeding is one of the Beretta's best points. Jams are few.



Beretta's Model 62 was developed from their Model 59—a selective fire version used by the Italian army for over ten years.



In firing over 100 rounds from each rifle tested, we found that all of them were extremely reliable with a variety of types of reloads and factory ammo.

ing bipods. Again purists rap this feature, but how many civilian products like the Harris Bi-Pod are regularly purchased every year? Without the aid of a natural rest like a tree, large boulder or fence post, the bipod is the most convenient and possibly the greatest aid to pinpoint accuracy ever devised. Remember the buffalo hunters with their crossed sticks? Nearly all manufacturers offer bipods as accessories and they all share a common design that enables the legs to fold flat against the fore-arm for easy storage.

Another cause for attack on these rifles' aesthetics is the built-in muzzle brakes that are often referred to as "flash-hiders." Over the years, countless numbers of commercial devices have been offered to the "sportsman" to reduce recoil and muzzle flip by adding one of these appendages. And isn't the Mag-na-porting® principle nothing more than a built-in muzzle brake?

Pistol grips are also assailed, yet many custom rifle and shotgun stock makers will build thumbhole models, which is a first cousin to the pistol grip design. Yet, there are those who maintain that a traditional grip design—which is like grasping

TOMORROW'S SPORTING RIFLE

the top edge of a 2x4—is more in keeping with the rifle's good looks. Appearances aside, the pistol grip is comfortable and adaptable to a wider range of shooters' hands. Everybody's hands are a different size, yet pistol grips do seemingly "fit-all"! These vertical handholds afford greater control of the rifle during firing and enable the shooter to absorb more of the rifle's recoil in the hands instead of at a more tender part of the body, the shoulder and upper arm.

Speaking of recoil, all of these guns generate less recoil than manually-operated rifles. Why? First, most of these autoloaders are gas-operated. Remember back in 1963 when Remington Arms introduced their popular Model 1100 shotgun? The boys from Bridgeport proved to the shooting world that gas-operated guns greatly reduced "kick" by spreading recoil out over a longer period of time.

With minor variances, most of these autoloading rifles work on the same principle. Just the correct amount of gas pressure is metered to operate the rifle's mechanism while the excess is exhausted into the air. Many of these rifles have a built-in adjustable gas piston enabling both light loads, like the .308 Remington Accelerators, and "hot" G.I. ammunition to properly cycle the action. The FN-

LAR features a knurled knob near the muzzle enabling the shooter to dial in the correct amount of gases easily and efficiently. The Colt AR-15 generates so little recoil that a shooter could place the buttstock against the bridge of his nose with little regard to facial damage—try that with any boltgun chambered for the .223 round.

All these military autoloaders share an



The Heckler & Koch HK93 shown above is wearing B-Square's scope mount, one that's much less expensive than the factory unit. A simple push of the button drops the 20-rd. magazine; a five-shot is available.



Instead of the cocking lever being on the bolt itself, H&K locates it over the barrel on the left side.



Even though the .308 version of the H&K (shown here) is a bit much for prairie dogs, the HK93 in .223 Rem. is perfect with a scope in place.



The accuracy displayed by all the test rifles is demonstrated by the HK91's 100-yd. ability shown here.

interesting characteristic—stock design and its relationship to the axis of the bore. All of these rifles possess elevated sights that demand that the shooter place his head in a more erect position. This different shooting and head placement position helps to reduce felt recoil and places less strain and stress on the shooter's neck. The rifle is merely brought "to" the shooter's cheek instead of the shooter having to assume a cramped position to "get into the gun." This stock design and placement of the sights provides an inline direction of recoil which is predominantly straight-back, instead of up and towards the shooter's face. Recoil is best described as a shove rather than a blow to the shoulder.

And on the subject of sights, all of these military-type rifles boast excellent

TOMORROW'S SPORTING RIFLE

aperture-type rear sights and are quickly and easily adjustable for shooting from 100 to 1,200 meters. Some use a flip-flop arrangement which either doubles or halves the sight range. Others, like the Swiss SIG PE boast a highly refined micrometer sight that is infinitely adjustable out to 1,500 meters, and as a bonus feature, both sights—front and rear—fold flat against the barrel and receiver. All of



H&K's M-93 is chambered for the .223 Remington round and this autoloading rifle is a durable, rugged performer. The folding bipod is a worthwhile accessory for varmint shooting.



The H&K Model 93, fired with factory ammo from the prone position, turned in some impressive groups.



MILITARY-TYPE SEMI-AUTOMATIC SPORTING RIFLE SPECIFICATIONS

NAME	MODEL	CALIBER	MAGAZINE CAPACITY (S)	RETAIL PRICE	IMPORTER AND/OR SALES COMPANY
Beretta	Model 62	.308 Win.	5/20 rounds	\$985.00	Beretta USA, 17601 Indian Head Hwy., Accokeek, MD 20607
Colt	AR-15 Sporter	.223 Rem.	5/20/40 rounds	\$479.95	Colt Firearms, 150 Huyshope Ave., Hartford, CT 06102
Fabrique Nationale	LAR Match	.308 Win.	10/20 rounds	\$1,975.00	Steyr, Daimler Puch of America, 85 Metro Way, Secaucus, NJ 07094
Heckler & Koch	HK91A2	.308 Win.	5/20 rounds	\$656.00	Heckler & Koch, 933 N. Kenmore St., Arlington, VA 22201
Heckler & Koch	HK93A2	.223 Rem.	5/20 rounds	\$638.00	Heckler & Koch, 933 N. Kenmore St., Arlington, VA 22201
Leader Dynamics	Mark 5	.223 Rem.	10/20 rounds	\$480.00	World Public Safety, 5855 Green Valley Circle, Culver City, CA 90230
Ruger	Mini-14	.223 Rem.	5/10/20 rounds	\$269.50	Sturm, Ruger & Co., Southport, CT 06490
SIG	AMT-308	.308 Win.	5/10/20 rounds	\$2,400.00	Mandall Shooting Supplies, P.O. Box 2327, Scottsdale, AZ 85251
SIG	PE-57	7.5x55 Swiss	24 rounds	\$2,000.00	Mandall Shooting Supplies, P.O. Box 2327, Scottsdale, AZ 85251
Springfield	M1A	.308 Win.	5/10/20 rounds	\$850.00	Springfield Armory, Geneseo, IL 61254

these rugged and dependable sighting systems are fully protected by "dog-ears" which deflect casual bumps and deter even the most damaging blows. Even if one of these rifles is dropped on a hard surface and lands on the sights, it is very unlikely that either sight will be damaged. Borrowing a page from the military manual—Smith & Wesson's new Models 439 and 459 autoloading pistols have an identical sight-protection set of dog-ears.

Another common besmirchment is that all military-type rifles aren't accurate and their inherent inaccuracy is compensated for by their ability to belch out great quantities of ammunition in a short period of time. Only half of that statement is correct. The semi-auto cyclic rate is as fast as the shooter can manipulate his trigger finger. We were able to fire 20-



The newest of these rifles is the Australian-made Leader autoloading carbine in .223 Remington caliber. It borrows some of its design features from the Colt AR-15 and the Armalite AR-180. This rifle from "Down Under" is a six-pound lightweight. It is businesslike in appearance and performance and costs about \$400.

round magazines with reasonable accuracy in time periods of less than five seconds. We selected the FN-LAR and from a bench position poured 20 rounds into a 18-inch steel plate 200 meters down-range and made it sound like the bells of St. Mary's. Test after test with all the rifles in this roundup proved that these guns were exceptionally rugged and dependable—but how about their ability to place five shots inside a water glass at 100 yards? Could they pass this "sporting"-arms type test? Only one of our rifles was equipped with a scope—the Heckler & Koch Model 91—all the others were "iron" sight versions. We decided to shoot what we had and rounded up a supply of PMC ammunition in both NATO calibers, .223 and .308, and trudged out to Angeles Shooting Range in San Fernando, California. We proceeded to set up our bench with our shooting paraphernalia, spotting scope, shooting coat, chronograph and cleaning equipment. No sooner had we laid out ten rifles on an adjacent bench than we were suddenly besieged by every other shooter on the line. These autoloaders are great conversation pieces and are magic to strike up new friendships. However, with all these interested spectators constantly kibbitzing, our one-day shooting test was stretched out to almost three days of benchrest work.

We didn't have the time to "zero-in" each rifle to print its five-shot group in the bullseye, but rather elected to shoot
continued on page 78

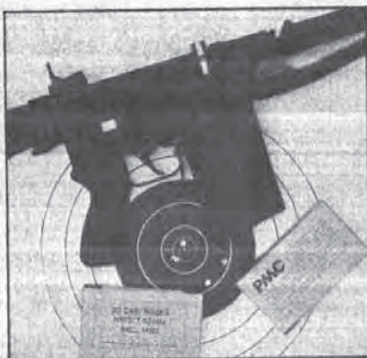
On the SIG 7.5x55 Swiss, besides the rear sight being adjustable in the same manner as a micrometer, both the front and rear sight fold down out of the way so they can't be damaged during transport, or when being carried in a rough manner in the field.



Accuracy of the SIG 7.5x55 Swiss when fired from the prone position, was outstanding. One-hundred-yard groups hovered around the 1¼-inch mark, and these were fired after already emptying a full magazine as fast as the trigger could be pulled.



The SIG .308 AMT, like the other arms in the test, featured an easily detachable multi-round magazine.



The SIG AMT, again like the other rifles in this test, was capable of outstanding accuracy once the military trigger pull was overcome.

Two accessories that the possessor of the SIG AMT needn't purchase as aftermarket add-ons are the carrying handle and the bipod that folds up out of the way on top of the barrel shield.



An interesting feature of the SIG AMT is the sight arrangement. The rear sight is adjustable only for distance in meters, while the front sight is fully adjustable for both elevation and windage, the latter being handled by the tried-and-true method of drifting in the dovetail.

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SEMI-AUTO RIFLES*continued from page 57*

only for groups as the guns were sighted and sent out by the various factories. Our ammunition, PMC, was strictly "military issue" with "ball" variety bullets. The .308 was loaded with ball powder and a 147-grain FMJ while the .223 was equipped with a 55-grain FMJ slug. We fired a few rounds through each rifle for familiarization and to learn how to overcome the military-type trigger. All the triggers were two-stage variety, and once the slack was taken up, the triggers were all crisp, but very, very heavy. Eight to 12-pound pulls were recorded with a trigger scale.

None of these rifles should be readjusted to provide lighter trigger pulls because premature firing could occur when the bolt slams forward. And, after one gets used to these heavy triggers, they can be handled nicely as they all break very cleanly. Only one rifle had a glitch—the M1A initially presented a minor problem as the trigger blade did not always return to its forwardmost position, which necessitated a gentle prodding. However, after about 40 rounds of firing, this gremlin disappeared.

At the conclusion of these accuracy tests, we were frankly astonished at the results. Five-shot groups with most of the iron-sighted rifles were on a par with many of today's scope-sighted turn-bolt rifles. The scope-sighted H&K Model 91, time after time, recorded groups hovering around the 1/4-inch mark. The FN-LAR was able to chip in with 1 1/2-inch groups using PMC ammunition, and with open sights. All of the rifles chambered for the .308 Winchester cartridge shot sub-two-inch, five-shot groups at 100 yards. Our four test guns chambered for the .223—the Australian Leader, the Colt AR-15, H&K Model 93 and the superlative Ruger Mini-14—are all capable of excellent accuracy, with this group's leader being the H&K Model 93, as it produced the tightest five-shot group, measuring a tad over 1 1/4 inches on a 100-yard target.

Okay, now that we've established that this special breed of rifles is rugged, dependable and accurate, what does one do

with them? Southern California is a shooter's Shangri-la as there are many "special purpose" shooting clubs. Combat pistol shooters have their own following, metallic silhouette shooters are a tightly-knit group and now on the scene is a group of dedicated riflemen who dream up riflemen's games. To find out what these games are all about, we entered a match which was named a "sniper course." Ten silhouette-type camouflage targets were placed randomly on the course ranging from 200 to 225 meters. An 11th shot was needed to hit a steel plate—300 meters distant—which stopped the clock. A two-minute time limit was placed on the shooter, during which he had to fire at all ten targets and then ring the gong. This was a small match, as inclement weather took its toll, but over 20 hearty riflemen entered. Most of the shooters were using auto-loading rifles—H&Ks, M1As and the FN-LARs. Two Ruger Mini-14s were also spotted and two shooters tried to run the course with Steyr bolt-action rifles. Now, two minutes may seem to be a long time, especially if your pants are on fire or you're holding your breath, but in an 11-shot rifle match, if you're not carrying an auto-loader, you'll run out of time. The bolt-action boys couldn't reload and fire fast enough to complete this assignment in the time frame. Another contributing factor to their failure was taking their eyes off the targets while cycling the bolt. All contestants fired from the prone position, and scopes and bipods were used by the top four finishers.

Another popular pastime with these autoloading is balloon-busting. A gaggle of balloons are released, preferably on a windy day, and shooting against a safe backdrop, these bouncing targets are fired at from a minimum of 100 yards. The competitor who bursts the most balloons with a single magazine loading of 20 rounds is declared the winner of the match. Try that game sometime with your favorite "thutty-thutty!"

If casual jackrabbit hunting is your bag, then wouldn't you rather have the convenience of a 20-shot magazine hanging between your hands when ole bre'r rabbit decides to do his famous bunny hop? Follow-up shots are much more ef-



For all-out enjoyment at bargain-basement prices the Ruger Mini 14 gives top value for dollars spent.



The FN LAR's long-range accuracy amazed the author even after he had grouped it off a bench at 100 yards.

fective when all the shooter has to do is follow the target and pull the trigger. Manually working any rifle action is slow and cumbersome, and more often than not, the critter being hunted seemingly just pops over the top of the ridge when the shooter is ready to pull the trigger for the second or third time.

How about big-game hunting with any of these rifles chambered for the .308 Winchester round? Why not! Sure, you'll get some guffaws from outfitters and guides and maybe you won't be welcome in the cook tent—initially. But to overcome these unfounded prejudices, offer to let any interested shooter shoot a few rounds with your military-type rifle. You won't make them a convert—your rifle will. If you do decide on packing one of these double-digit magazine capacity rifles, check with your local game commission as many states mandate only rifles capable of accommodating up to five shots as legal. All of these rifles are available from the factory with five-shot magazines, and some are equipped with both five and 20-round magazines.

How about scopes and mounts? After-market accessories are numerous. B-Square and a host of other scope mount makers offer inexpensive and reliable mounts, rings and bases for nearly all these rifles. Any high-quality one-inch tube scope found on a conventional rifle can be utilized on these autoloaders. But we found that variable scopes, like the Leupold 2-7X or Redfield's 3x9, were extremely versatile. All these rifles were designed for long-range shooting, even out to 1,000 meters, and a high-power scope can wring out the last drop of accuracy.

So before you rush out and purchase one of these multi-purpose rifles, we'd suggest that you go to your local rifle range and seek out a fellow shooter who will let you try one of these marvelous longarms. The FN-LAR or the Beretta Model 62 might be just your choice, but then again the H&Ks offer a lot of features and the Ruger Mini-14 is so nice and light to tote about . . . anyways, you'll find a whole new world of rifles out there just waiting for you. Try 'em, you'll be pleasantly surprised.



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.22 and .25 caliber models available with Blue, Stainless or Nickel finish. All with 6-round magazine capacity. Extra magazines available.

INSURANCE

At your firearms dealer. Or write for new catalog to all Sterling autoloaders. Please send 25 cents.

211 Grand Street, Rochester, N.Y. 14604

EXHIBIT 14
TO THE DECLARATION OF JOHN D. ECHEVERRIA

other purpose. Such persons shall hold office during the term of their employment by the state highway department but the authority herein vested shall cease upon the termination of such employment. The persons so appointed shall by reason of such appointment be members of the department of public safety during the terms of such appointment but shall serve without pay as members thereof.

Approved June 2, 1927.

[No. 372.]

AN ACT to regulate and license the selling, purchasing, possessing and carrying of certain firearms; to prohibit the buying, selling or carrying of certain firearms without a license therefor; to prohibit the possession of certain weapons and attachments; to prohibit the pawning of certain firearms; to prohibit the sale, offering for sale, or possession for the purpose of sale of written or printed matter containing any offer to sell or deliver certain firearms or devices within this state; to provide penalties for the violations of this act, and to repeal act number two hundred seventy-four of the public acts of nineteen hundred eleven, being sections fifteen thousand two hundred thirty-six, fifteen thousand two hundred thirty-seven, fifteen thousand two hundred thirty-eight, fifteen thousand two hundred thirty-nine, fifteen thousand two hundred forty, fifteen thousand two hundred forty-one, fifteen thousand two hundred forty-two, fifteen thousand two hundred forty-three, fifteen thousand two hundred forty-four, fifteen thousand two hundred forty-five and fifteen thousand two hundred forty-six of the compiled laws of nineteen hundred fifteen; act number three hundred thirteen of the public acts of nineteen hundred twenty-five; and section sixteen of chapter one hundred sixty-two of the revised statutes of eighteen hundred forty-six, being section fifteen thousand six hundred forty-one of the compiled laws of nineteen hundred fifteen.

The People of the State of Michigan enact:

SECTION 1. The word "pistol" as used in this act shall mean any firearm, loaded or unloaded, thirty inches or less in length. The word "purchaser" shall mean any person who receives a pistol from another by purchase, gift or loan. The word "seller" shall mean any person who sells, furnishes, loans or gives a pistol to another. Words defined.

SEC. 2. No person shall purchase a pistol as defined in this act without first having obtained a license therefor as License before purchase.

Exhibit 69

00010

888

PUBLIC ACTS, 1927—No. 372.

prescribed herein. The commissioner or chief of police, or his duly authorized deputy, in incorporated cities or in incorporated villages having an organized department of police, and the sheriff, or his authorized deputy, in parts of the respective counties not included within incorporated cities or villages, are hereby authorized to issue licenses to purchase pistols to applicants residing within the respective territories herein mentioned. No such license shall be granted to any person except he be nineteen years of age or over, and has resided in this state six months or more, and in no event shall such a license be issued to a person who has been convicted of a felony or adjudged insane in this state or elsewhere. Applications for such licenses shall be signed by the applicant under oath upon forms provided by the commissioner of public safety. Licenses to purchase pistols shall be executed in duplicate upon forms provided by the commissioner of public safety and shall be signed by the licensing authority. One copy of such license shall be delivered to the applicant and the duplicate of such license shall be retained by such licensing authority as a permanent official record for a period of six years. Such license shall be void unless used within ten days after the date of its issue. Any person who shall sell to another any pistol as defined in this act without complying with the requirements of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail not more than ninety days, or both such fine and imprisonment in the discretion of the court. Such license shall be signed in ink by the holder thereof in the presence of the person selling, loaning or giving a pistol to such licensee and shall thereupon be taken up by such person, signed by him in ink and shall be delivered or sent by registered mail within forty-eight hours to the commissioner of public safety. The seller shall certify upon said license in the space provided therefor the name of the person to whom such pistol was delivered, the make, style, calibre and number of such pistol, and shall further certify that such purchaser signed his name on said license in the presence of the seller. The provisions of this section shall not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, nor to the sale, barter or exchange of pistols kept solely as relics, souvenirs or curios.

To whom granted.

Executed in duplicate.

Misdemeanor; penalty.

Unlawful to manufacture, etc., certain firearms, etc.

Penalty for violation.

SEC. 3. It shall be unlawful within this state to manufacture, sell, offer for sale, or possess any machine gun or firearm which can be fired more than sixteen times without reloading, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb or bombshell, or any blackjack, slung shot, billy, metallic knuckles, sandclub, sandbag or bludgeon. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by a fine not exceeding one thousand

Exhibit 69

00011

PUBLIC ACTS, 1927—No. 372.

880

dollars or imprisonment in the state prison not more than five years, or by both such fine and imprisonment in the discretion of the court. The provisions of this section shall not apply, however, to any person, firm or corporation manufacturing firearms, explosives or munitions of war by virtue of any contracts with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof.

SEC. 4. Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over three inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in the discretion of the court.

Felony,
what
deemed.

Penalty.

SEC. 5. No person shall carry a dagger, dirk, stiletto or other dangerous weapon except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him. No person shall carry a pistol concealed on or about his person, or, whether concealed or otherwise, in any vehicle operated or occupied by him, except in his dwelling house or place of business or on other land possessed by him, without a license therefor as herein provided. Any person violating the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in the discretion of the court.

Unlawful to
carry, etc.,
dagger, etc.

SEC. 6. The prosecuting attorney, the commissioner or chief of police and the commissioner of public safety or their respective authorized deputies in incorporated cities or in incorporated villages having an organized department of police, and the prosecuting attorney, the commissioner of public safety or their authorized deputies, and the sheriff, under-sheriff or chief deputy sheriff in parts of the respective counties not included within incorporated cities or villages shall constitute boards exclusively authorized to issue licenses to carry pistols concealed on the person to applicants residing within the respective territories herein mentioned. The county clerk of each county shall be clerk of such licensing boards, which boards shall be known in law as "The Concealed Weapon Licensing Board." No such license to carry a pistol concealed on the person shall be granted to any person except he be nineteen years of age or over and has resided in this state six months or over, and in no event shall such license be issued unless it appears that the applicant has good reason to fear injury to his person or property, or has

Concealed
weapon
licensing
board.

To whom
license
granted.

Exhibit 69

00012

other proper reasons, and that he is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony or adjudged insane in this state or elsewhere. The prosecuting attorney shall be the chairman of the said board, which shall convene at least once in each calendar month and at such other times as they shall be called to convene by the chairman. Such licenses shall be issued only upon written application signed by the applicant and on his oath and upon forms provided by the commissioner of public safety. Such licenses shall issue only with the approval of a majority of said board and shall be executed in triplicate upon forms provided by the commissioner of public safety and shall be signed in the name of the concealed weapon licensing board by the county clerk and the seal of the circuit court affixed thereto. One copy of such license shall be delivered to the applicant, the duplicate of said license shall be retained by the county clerk as a permanent official record for a period of six years, and the triplicate of such license shall be forwarded to the commissioner of public safety who shall file and index licenses so received by him and keep the same as a permanent official record for a period of six years. Each license shall be issued for a definite period of not more than one year, to be stated in the license, and no renewal of such license shall be granted except upon the filing of a new application. Every license issued hereunder shall bear the imprint of the right thumb of the licensee, or, if that be not possible, of the left thumb or some other finger of such licensee. Such licensee shall carry such license upon his person at all times when he may be carrying a pistol concealed upon his person and shall display such license upon the request of any peace officer.

Chairman of board.

Duration of license.

When license to expire.

When license revoked.

Sec. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December thirty-one, nineteen hundred twenty-seven.

Sec. 8. The licensing board herein created by section six may revoke any license issued by it upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act, or has been convicted of a felony. Such license may also be revoked whenever in the judgment of said board the reason for granting such license shall have ceased to exist, or whenever said board shall for any reasonable cause determine said licensee to be an unfit person to carry a pistol concealed upon his person. No such license shall be revoked except upon written complaint and then only after a hearing by said board, of which at least seven days' notice shall be given to the licensee either by personal service or by registered mail to his last known address. The clerk of said licensing board is hereby authorized to administer an oath to any person testifying before such board at any such hearing.

Exhibit 69
00013

PUBLIC ACTS, 1927—No. 372.

891

SEC. 9. On or before the first day of November, nineteen hundred twenty-seven, any person within this state who owns or has in his possession a pistol as defined in this act, shall, if he reside in an incorporated city or an incorporated village having an organized police department, present such weapon for safety inspection to the commissioner or chief of police of such city or village; if such person reside in a part of the county not included within the corporate limits of such city or village he shall so present such pistol for safety inspection to the sheriff of such county. Any person owning or coming into possession of a pistol after the first day of November, nineteen hundred twenty-seven, shall forthwith present such pistol for safety inspection in the manner provided in this section. A certificate of inspection shall thereupon be issued in triplicate on a form provided by the commissioner of public safety, containing the name, age, address, description and signature of the person presenting such pistol for inspection, together with a full description thereof; the original of such certificate shall be delivered to the registrant; the duplicate thereof shall be mailed to the commissioner of public safety and filed and indexed by him and kept as a permanent official record for a period of six years, and the triplicate of such certificate shall be retained and filed in the office of said sheriff, or commissioner or chief of police, as the case may be. The provisions of this section shall not apply to wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as relics, souvenirs, curios or antiques, nor to weapons heretofore registered under the provisions of section eleven of act number three hundred thirteen of the public acts of nineteen hundred twenty-five. Any person who fails to comply with the provision of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment in the discretion of the court.

Safety inspection of weapons.

Certificate issued.

SEC. 10. No pawnbroker shall accept a pistol in pawn. Any person violating this section of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment in the discretion of the court.

Pistol not accepted in pawn.

SEC. 11. No person shall wilfully alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identity of any pistol. Possession of any such firearm upon which the number shall have been altered, removed or obliterated, shall be presumptive evidence that such possessor has altered, removed or obliterated the same. Any person convicted under this section shall be punished by a fine not to exceed five hundred dollars or by imprisonment

Alteration of pistol unlawful.

Exhibit 69

00014

Exceptions to act.	in the state prison not to exceed two years or by both such fine and imprisonment in the discretion of the court.
When unlawfully possessed.	<p>SEC. 12. The provisions of section two, three, five and nine shall not apply to any peace officer of the state or any subdivision thereof who is regularly employed and paid by the state or such subdivision, or to any member of the army, navy or marine corps of the United States, or of organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard or other duly authorized military organizations when on duty or drill, nor to the members thereof in going to or returning from their customary places of assembly or practice, nor to a person licensed to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise, or to any person while carrying a pistol unloaded in a wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business, or in moving goods from one place of abode or business to another.</p> <p>SEC. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found; to seize and hold the same as evidence of a violation of this act.</p>
Forfeited to state.	<p>SEC. 14. All pistols, weapons or devices carried or possessed contrary to this act are hereby declared forfeited to the state.</p>
Certain books, etc., unlawful to sell, etc.	<p>SEC. 15. It shall be unlawful to sell or deliver within this state, or to offer or expose for sale, or to have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper or other form of written or printed matter offering to sell or deliver, or containing an offer to sell or deliver to any person within this state from any place without this state any pistol or any weapon or device mentioned in section three hereof. The provisions of this section shall not apply to sales of or offers to sell pistols at wholesale to persons regularly engaged in the business of selling such pistols at wholesale or retail, nor to sales or offers to sell such pistols made or authorized by the United States government or any department or agency thereof.</p>
Penalty for violation.	<p>SEC. 16. Any person violating the provisions of section fifteen of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed ninety days, or by both such fine and imprisonment in the discretion of the court.</p>

Exhibit 69

00015

PUBLIC ACTS, 1927—No. 373.

893

Sec. 17. Act number two hundred seventy-four of the public acts of nineteen hundred eleven, being sections fifteen thousand two hundred thirty-six, fifteen thousand two hundred thirty-seven, fifteen thousand two hundred thirty-eight, fifteen thousand two hundred thirty-nine, fifteen thousand two hundred forty, fifteen thousand two hundred forty-one, fifteen thousand two hundred forty-two, fifteen thousand two hundred forty-three, fifteen thousand two hundred forty-four, fifteen thousand two hundred forty-five and fifteen thousand two hundred forty-six of the compiled laws of nineteen hundred fifteen; act number three hundred thirteen of the public acts of nineteen hundred twenty-five; and section sixteen of chapter one hundred sixty-two of the revised statutes of eighteen hundred forty-six, being section fifteen thousand six hundred forty-one of the compiled laws of nineteen hundred fifteen, are hereby repealed: *Provided, however,* That any proceedings pending under any of said sections herein repealed shall not be affected hereby but shall be concluded in accordance with the law of such repealed section or sections.

Acts
repealed.

Proviso.

Sec. 18. This act is declared to be severable, and should any section hereof be hereafter declared unconstitutional or otherwise invalid, the remainder of the act shall not be affected thereby.

Saving
clause.

Approved June 2, 1927.

[No. 373.]

AN ACT to amend section twenty-five of chapter thirty of act number three hundred fourteen of the public acts of nineteen hundred fifteen, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms of civil actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," being section thirteen thousand two hundred fifty-three of the compiled laws of nineteen hundred fifteen, as amended by act number two hundred forty-three of the public acts of nineteen hundred seventeen, and to add a new section thereto to stand as section thirty-one.

The People of the State of Michigan enact:

SECTION 1. Section twenty-five of chapter thirty of act number three hundred fourteen of the public acts of nineteen hundred fifteen, as amended by act number two hundred forty-three of the public acts of nineteen hundred seventeen, is amended to read as follows:

Section
amended.

00016

EXHIBIT 15
TO THE DECLARATION OF JOHN D. ECHEVERRIA

256 JANUARY SESSION, 1927—CHAPTER 1052.

CHAPTER 1052.

H 729 A
Approved
April 22, 1927.

AN ACT TO REGULATE THE POSSESSION OF FIREARMS.

It is enacted by the General Assembly as follows:

Certain words
and phrases,
how construed:

SECTION 1. When used in this act the following words and phrases shall be construed as follows:

"Pistol."

"Pistol" shall include any pistol or revolver, and any shot gun, rifle or similar weapon with overall length less than twenty-six inches, but shall not include any pistol without a magazine or any pistol or revolver designed for the use of blank cartridges only.

"Machine gun."

"Machine gun" shall include any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without re-loading.

"Firearm."

"Firearm" shall include any machine gun or pistol.

"Person."

"Person" shall include firm, association or corporation.

"Licensing authorities."

"Licensing authorities" shall mean the board of police commissioners of a city or town where such board has been instituted, the chief of police or superintendent of police of other cities and towns having a regular organized police force, and in towns where there is no chief of police or superintendent of police it shall mean the town clerk who may issue licenses upon the recommendation of the town sergeant;

"Crime of violence."

"Crime of violence" shall mean and include any of the following crimes or an attempt to commit any of the same, viz.: murder, manslaughter, rape, mayhem, assault or battery involving grave bodily injury, robbery, burglary, and breaking and entering.

"Sell."

"Sell" shall include let or hire, give, lend and transfer, and the word "purchase" shall include hire, accept

"Purchase."

and borrow, and the expression "purchasing" shall be construed accordingly."

"Purchasing."

Exhibit
00018

JANUARY SESSION, 1927—CHAPTER 1052. 257

SEC. 2. If any person shall commit or attempt to commit a crime of violence when armed with or having available any firearm, he may in addition to the punishment provided for such crime of violence be punished as provided in this act. In the trial of a person for committing or attempting to commit a crime of violence the fact that he was armed with or had available a pistol without license to carry the same, or was armed with or had available a machine gun, shall be prima facie evidence of his intention to commit said crime of violence.

Additional punishment under this act.

What to be prima facie evidence of intention to commit crime of violence.

SEC. 3. No person who has been convicted in this state or elsewhere of a crime of violence shall purchase, own, carry or have in his possession or under his control any firearm.

Who to be denied firearms.

SEC. 4. No person shall, without a license therefor, issued as provided in section six hereof, carry a pistol in any vehicle or concealed on or about his person, except in his dwelling house or place of business or on land possessed by him, and no person shall manufacture, sell, purchase or possess a machine gun except as otherwise provided in this act.

Carrying of pistol forbidden, except when.

Machine gun.

SEC. 5. The provisions of section four shall not apply to sheriffs, deputy sheriffs, the superintendent and members of the state police, prison or jail wardens or their deputies, members of the city or town police force or other duly appointed law enforcement officers, nor to members of the army, navy or marine corps of the United States, or of the national guard, when on duty, or of organizations by law authorized to purchase or receive firearms from the United States or this state, nor to officers or employees of the United States authorized by law to carry a concealed firearm, nor to duly authorized military organizations when on duty, nor to the members thereof when at or going to or from

Sec. 4 not to apply to whom.

Exhibit
00019

EXHIBIT 16
TO THE DECLARATION OF JOHN D. ECHEVERRIA

189

Passed March 30, 1933.

Approved April 6, 1933.

GEORGE WHITE,
Governor.

The sectional number herein is in conformity to the General Code.

JOHN W. BRICKER,
Attorney General.

Filed in the office of the Secretary of State at Columbus, Ohio, on
the 10th day of April, A. D. 1933.

GEORGE S. MYERS,
Secretary of State.

File No. 63.

(House Bill No. 166)

AN ACT

To supplement section 12819 of the General Code by the enactment of
supplemental sections 12819-3, 12819-4, 12819-5, 12819-6 and
12819-7, relative to the sale and possession of machine guns.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 12819 of the General Code be supplemented by the enactment of sections 12819-3, 12819-4, 12819-5, 12819-6 and 12819-7, to read as follows:

Definitions.

Sec. 12819-3. For the purpose of this act, a machine gun, a light machine gun or a sub-machine gun shall be defined as any firearm which shoots automatically, or any firearm which shoots more than eighteen shots semi-automatically without reloading. Automatically as above used means that class of firearms which, while the trigger on the firearm is held back continues to fire successive shots. Semi-automatically means that class of firearm which discharges one shot only each time the trigger is pulled, no manual reloading operation being necessary between shots.

Machine gun permit; application; bond of applicant; exceptions.

Sec. 12819-4. No person shall own, possess, transport, have custody of or use a machine gun, light machine gun or sub-machine gun, unless he first procures a permit therefor from and at the discretion of the

Exhibit 71
00021

EXHIBIT 17
TO THE DECLARATION OF JOHN D. ECHEVERRIA

650

72d CONGRESS. SESS. I. CHS. 464, 465. JULY 8, 1932.

Punishment for.
Proriso.
Jurisdiction.

States, for the purpose of having such communication delivered by the post-office establishment of such foreign country to the post-office establishment of the United States and by it delivered to such addressee in the United States, and as a result thereof such communication is delivered by the post-office establishment of such foreign country to the post-office establishment of the United States and by it delivered to the address to which it is directed in the United States, then such person shall be punished in the same manner and to the same extent as provided in section 1 of this Act: *Provided*, That any person violating this section may be prosecuted either in the district into which such letter or other communication was carried by the United States mail for delivery according to the direction thereon, or in which it was caused to be delivered by the United States mail to the person to whom it was addressed.

Approved, July 8, 1932.

[CHAPTER 465.]

AN ACT

July 8, 1932.
[H. R. 8754.]
[Public, No. 275.]

To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes.

Unauthorized use,
etc., of pistols and other
dangerous weapons in
District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Definitions.

DEFINITIONS

"Pistol."

SECTION 1. "Pistol," as used in this Act, means any firearm with a barrel less than twelve inches in length.

"Sawed-off shotgun."

"Sawed-off shotgun," as used in this Act, means any shotgun with a barrel less than twenty inches in length.

"Machine gun."

"Machine gun," as used in this Act, means any firearm which shoots automatically or semiautomatically more than twelve shots without reloading.

"Person."

"Person," as used in this Act, includes, individual, firm, association, or corporation.

"Sell" and "purchase," etc.

"Sell" and "purchase" and the various derivatives of such words, as used in this Act, shall be construed to include letting on hire, giving, lending, borrowing, and otherwise transferring.

"Crime of violence."

"Crime of violence" as used in this Act, means any of the following crimes, or an attempt to commit any of the same, namely: Murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary.

COMMITTING CRIME WHEN ARMED

Committing crime of
violence when armed.
Punishment for.

SEC. 2. If any person shall commit a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm, he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than five years; upon a second conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than ten years; upon a third conviction for a crime of violence so committed he may, in addition to the punishment provided for the

Exhibit 78
00082

72d CONGRESS. SESS. I. CH. 465. JULY 8, 1932.

651

crime, be punished by imprisonment for a term of not more than fifteen years; upon a fourth or subsequent conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for an additional period of not more than thirty years.

PERSONS FORBIDDEN TO POSSESS CERTAIN FIREARMS

Persons forbidden to
possess certain fire-
arms.
Convicted of a crime.

SEC. 3. No person who has been convicted in the District of Columbia or elsewhere of a crime of violence shall own or have in his possession a pistol, within the District of Columbia.

CARRYING CONCEALED WEAPONS

SEC. 4. No person shall within the District of Columbia carry concealed on or about his person, except in his dwelling house or place of business or on other land possessed by him, a pistol, without a license therefor issued as hereinafter provided, or any deadly or dangerous weapon.

Illegally carrying,
etc., dangerous weapon.

EXCEPTIONS

Exceptions.

SEC. 5. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens, or their deputies, policemen or other duly appointed law-enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States or of the National Guard or Organized Reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving goods from one place of abode or business to another.

Law enforcement of-
ficers.
Army, Navy, or Ma-
rine Corps.

National Guard,
etc., on duty.
Other organizations.

Carrying to places of
assembly, etc.

Manufacturer, etc.

ISSUE OF LICENSES TO CARRY

Licenses.

SEC. 6. The superintendent of police of the District of Columbia may, upon the application of any person having a bona fide residence or place of business within the District of Columbia or of any person having a bona fide residence or place of business within the United States and a license to carry a pistol concealed upon his person issued by the lawful authorities of any State or subdivision of the United States, issue a license to such person to carry a pistol within the District of Columbia for not more than one year from date of issue, if it appears that the applicant has good reason to fear injury to his person or property or has any other proper reason for carrying a pistol and that he is a suitable person to be so licensed. The license shall be in duplicate, in form to be prescribed by the Commissioners of the District of Columbia and shall bear the name, address, description, photograph, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, and the duplicate shall be retained by the superintendent of police of the District of Columbia and preserved in his office for six years.

Exhibit 78
00083

652

72d CONGRESS. SESS. I. CH. 465. JULY 8, 1932.

SELLING TO MINORS AND OTHERS

Selling to minors or others.

SEC. 7. No person shall within the District of Columbia sell any pistol to a person who he has reasonable cause to believe is not of sound mind, or is a drug addict, or is a person who has been convicted in the District of Columbia or elsewhere of a crime of violence or, except when the relation of parent and child or guardian and ward exists, is under the age of eighteen years.

TRANSFERS REGULATED

Time, etc., provisions.

Register to be kept.

Limitation.

Wholesale trade.

SEC. 8. No seller shall within the District of Columbia deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, except in the case of sales to marshals, sheriffs, prison or jail wardens or their deputies, policemen, or other duly appointed law-enforcement officers, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. The seller shall, within six hours after such application, sign and attach his address and deliver one copy to such person or persons as the superintendent of police of the District of Columbia may designate, and shall retain the other copy for six years. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section 14 hereof as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia. This section shall not apply to sales at wholesale to licensed dealers.

DEALERS TO BE LICENSED

Dealers to be licensed.

SEC. 9. No retail dealer shall within the District of Columbia sell or expose for sale or have in his possession with intent to sell, any pistol, machine gun, sawed-off shotgun, or blackjack without being licensed as hereinafter provided. No wholesale dealer shall, within the District of Columbia, sell, or have in his possession with intent to sell, to any person other than a licensed dealer, any pistol, machine gun, sawed-off shotgun, or blackjack.

DEALERS' LICENSES, BY WHOM GRANTED AND CONDITIONS THEREOF

Conditions, etc., for issuing dealers' licenses. *Ante*, p. 558.

SEC. 10. The Commissioners of the District of Columbia may, in their discretion, grant licenses and may prescribe the form thereof, effective for not more than one year from date of issue, permitting the licensee to sell pistols, machine guns, sawed-off shotguns, and blackjacks at retail within the District of Columbia subject to the following conditions in addition to those specified in section 9 hereof, for breach of any of which the license shall be subject to forfeiture and the licensee subject to punishment as provided in this Act.

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can be easily read.

Exhibit 78

00084

72d CONGRESS. SESS. I. CH. 465. JULY 8, 1932.

653

3. No pistol shall be sold (a) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is a drug addict or has been convicted in the District of Columbia or elsewhere of a crime of violence or is under the age of eighteen years, and (b) unless the purchaser is personally known to the seller or shall present clear evidence of his identity. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section 14 hereof as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia.

4. A true record shall be made in a book kept for the purpose, the form of which may be prescribed by the Commissioners, of all pistols, machine guns, and sawed-off shotguns in the possession of the licensee, which said record shall contain the date of purchase, the caliber, make, model, and manufacturer's number of the weapon, to which shall be added, when sold, the date of sale. Records.

5. A true record in duplicate shall be made of every pistol, machine gun, sawed-off shotgun, and blackjack sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Commissioners of the District of Columbia and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other and shall contain the date of sale, the name, address, occupation, color, and place of birth of the purchaser, and, so far as applicable, the caliber, make, model, and manufacturer's number of the weapon, and a statement signed by the purchaser that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. One copy of said record shall, within seven days, be forwarded by mail to the superintendent of police of the District of Columbia and the other copy retained by the seller for six years.

6. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of said premises where it can readily be seen from the outside. No license to sell at retail shall be granted to anyone except as provided in this section. Display, etc., forbidden.

FALSE INFORMATION FORBIDDEN

SEC. 11. No person, shall, in purchasing a pistol or in applying for a license to carry the same, or in purchasing a machine gun, sawed-off shotgun, or blackjack within the District of Columbia, give false information or offer false evidence of his identity. False information or evidence forbidden.

ALTERATION OF IDENTIFYING MARKS PROHIBITED

SEC. 12. No person shall within the District of Columbia change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark or identification on any pistol, machine gun, or sawed-off shotgun. Possession of any pistol, machine gun, or sawed-off shotgun upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same within the District of Columbia: *Provided, however,* That nothing contained in this section shall apply to any officer or agent of any of the departments of the United States or the District of Columbia engaged in experimental work. Alteration, etc., of identification marks, prohibited.

Provided.
Experimental work.

EXCEPTIONS

SEC. 13. This Act shall not apply to toy or antique pistols unsuitable for use as firearms. Toys, etc., excepted.

Exhibit 78
00085

654

72d CONGRESS. SESS. I. CHS. 465, 466. JULY 8, 1932.

POSSESSION OF CERTAIN DANGEROUS WEAPONS

Possession of certain
dangerous weapons for
hiding.

Prison,
Exceptions.

SEC. 14. No person shall within the District of Columbia possess any machine gun, sawed-off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, slung shot, sand club, sandbag, or metal knuckles, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms: *Provided, however,* That machine guns, or sawed-off shotguns, and blackjacks may be possessed by the members of the Army, Navy, or Marine Corps of the United States, the National Guard, or Organized Reserves when on duty, the Post Office Department or its employees when on duty, marshals, sheriffs, prison or jail wardens, or their deputies, policemen, or other duly appointed law-enforcement officers, officers or employees of the United States duly authorized to carry such weapons, banking institutions, public carriers who are engaged in the business of transporting mail, money, securities, or other valuables, wholesale dealers and retail dealers licensed under section 10 of this Act.

PENALTIES

Punishment for vio-
lations.

SEC. 15. Any violation of any provision of this Act for which no penalty is specifically provided shall be punished by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

CONSTITUTIONALITY

Invalidity of any
provision not to affect
remainder.

SEC. 16. If any part of this Act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Act.

CERTAIN ACTS REPEALED

Vol. 31, p. 1329,
repealed.

SEC. 17. The following sections of the Code of Law for the District of Columbia, 1919, namely, sections 855, 856, and 857, and all other Acts or parts of Acts inconsistent herewith, are hereby repealed.

Approved, July 8, 1932.

[CHAPTER 466.]

JOINT RESOLUTION

July 8, 1932.
[H. J. Res. 462.]
[Pub. Res., No. 35.]

Making an appropriation to provide transportation to their homes for veterans of the World War temporarily quartered in the District of Columbia.

World War veterans.
Appropriation for, to
provide transportation
from District of Colum-
bia to their homes.
Post, p. 701.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to enable the Administrator of Veterans' Affairs, upon the request of any honorably discharged veteran of the World War, temporarily quartered in the District of Columbia, who is desirous of returning to his home, to provide such veteran with railroad transportation thereto prior to July 15, 1932, together with travel subsistence at the rate of 75 cents per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000: *Provided,* That all amounts expended under this appropriation in behalf of any veteran shall constitute a loan without interest which, if not repaid to the United States, shall be deducted from any amounts payable to such veteran on his adjusted-service certificate.

Proviso.
Credited as a loan.

Approved, July 8, 1932.

Exhibit 78
00086

EXHIBIT 18
TO THE DECLARATION OF JOHN D. ECHEVERRIA

GUN LAW HISTORY IN THE UNITED STATES AND SECOND AMENDMENT RIGHTS

ROBERT J. SPITZER*

I

INTRODUCTION

In its important and controversial 2008 decision on the meaning of the Second Amendment, *District of Columbia v. Heller*,¹ the Supreme Court ruled that average citizens have a constitutional right to possess handguns for personal self-protection in the home.² Yet in establishing this right, the Court also made clear that the right was by no means unlimited, and that it was subject to an array of legal restrictions, including: “prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.”³ The Court also said that certain types of especially powerful weapons might be subject to regulation,⁴ along with allowing laws regarding the safe storage of firearms.⁵ Further, the Court referred repeatedly to gun laws that had existed earlier in American history as a justification for allowing similar contemporary laws,⁶ even though the court, by its own admission, did not undertake its own “exhaustive historical analysis” of past laws.⁷

In so ruling, the Court brought to the fore and attached legal import to the history of gun laws. This development, when added to the desire to know our own history better, underscores the value of the study of gun laws in America. In recent years, new and important research and writing has chipped away at old

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This article is also available online at <http://lcp.law.duke.edu/>.

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1. *District of Columbia v. Heller*, 554 U.S. 570 (2008).

2. *Id.* at 628–30, 635–36.

3. *Id.* at 626–27.

4. *See id.* at 623, 627 (citing *United States v. Miller*, 307 U.S. 174, 178 (1939)) (distinguishing validity of ban on short-barreled shotguns and noting that weapons protected were those used at time of ratification).

5. *See id.* at 632 (excluding gun-storage laws from scope of decision).

6. *See id.* at 626–27, 629 (“From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever and for whatever purpose.”) (citation omitted).

7. *Id.* at 626.

myths to present a more accurate and pertinent sense of our gun past.⁸ Researchers and authors including Saul Cornell, Alexander DeConde, Craig Whitney, and Adam Winkler have all published important work making clear that gun laws are by no means a contemporary phenomenon.⁹ Yet even now, far too few understand or appreciate the fact that though gun possession is as old as America, so too are gun laws. But there's more: gun laws were not only ubiquitous, numbering in the thousands, but also spanned every conceivable category of regulation, from gun acquisition, sale, possession, transport, and use, including deprivation of use through outright confiscation, to hunting and recreational regulations, to registration and express gun bans. For example, the contemporary raging dispute over the regulation of some semi-automatic weapons that began in late 1980s was actually presaged seven decades earlier, when at least seven states banned such weapons entirely—a fact that seems to have been unknown to modern analysts until now. A vast newly compiled dataset of historical gun laws reveals that the first gun grabbers (as contemporary gun rights advocates like to label gun control proponents) were not Chablis-drinking liberals of the 1960s, but rum-guzzling pioneers dating to the 1600s.

This historical examination is especially relevant to the modern gun debate because, at its core, that debate is typically framed as a fierce, zero-sum struggle between supporters of stronger gun laws versus supporters of gun rights (who, of course, largely oppose stronger gun laws—or so it is said). The zero-sum quality of this struggle posits that a victory for one side is a loss for the other, and vice versa. Yet history tells a very different story—that, for the first 300 years of America's existence, gun laws and gun rights went hand-in-hand. It is only in recent decades, as the gun debate has become more politicized and more ideological that this relationship has been reframed as a zero-sum struggle.

The plethora of early gun laws herein described establish their prolific existence, but also validate the argument that gun rules and gun rights are by no means at odds. If the Supreme Court was indeed serious in saying that the provenance of gun regulations is relevant to the evaluation of contemporary laws, then this examination advances the Court's stated objective. The common

8. SAUL CORNELL, *A WELL-REGULATED MILITIA: THE FOUNDING FATHERS AND THE ORIGINS OF GUN CONTROL IN AMERICA* (2006); *THE SECOND AMENDMENT ON TRIAL: CRITICAL ESSAYS ON DISTRICT OF COLUMBIA V. HELLER* (Saul Cornell & Nathan Kozuskanich eds., 2013); CRAIG R. WHITNEY, *LIVING WITH GUNS: A LIBERAL'S CASE FOR THE SECOND AMENDMENT* (2012); ADAM WINKLER, *GUNFIGHT: THE BATTLE OVER THE RIGHT TO BEAR ARMS IN AMERICA* (2011).

9. CORNELL, *supra* note 8; ALEXANDER DECONDE, *GUN VIOLENCE IN AMERICA: THE STRUGGLE FOR CONTROL* (2001); WHITNEY, *supra* note 8; WINKLER, *supra* note 8. More than any other single scholar or writer, historian Saul Cornell has been most responsible for excavating the legal and social realities of the laws and practices related to guns in early America. In addition to many articles, Cornell has published a number of books on the subject including, *WHOSE RIGHT TO BEAR ARMS DID THE SECOND AMENDMENT PROTECT?* (2000), *A WELL-REGULATED MILITIA: THE FOUNDING FATHERS AND THE ORIGINS OF GUN CONTROL IN AMERICA* (2006), and *THE SECOND AMENDMENT ON TRIAL*, *supra* note 8. The first important serious treatment of early gun laws and history is LEE KENNETT & JAMES LAVERNE ANDERSON, *THE GUN IN AMERICA: THE ORIGINS OF A NATIONAL DILEMMA* (1975).

notions that gun laws are largely a function of modern, industrial (or post-industrial) America, that gun laws are incompatible with American history and its practices or values, and that gun laws fundamentally collide with American legal traditions or individual rights, are all patently false. Following this introduction in part I, part II establishes that gun laws are as old as the nation. Part III summarizes the different categories into which early gun laws are categorized, and the frequency distributions within each category divided into time periods from 1607 to 1934. Part IV examines illustrative laws within each category and considers their nature and consequences. Part V offers a brief conclusion.

Above and beyond the general ubiquity of gun regulations early in the country's history, the range of those regulations is punctuated by the most dramatic of those laws discussed in parts III and IV: measures that called for gun confiscation for myriad reasons including military necessity, failure to swear allegiance to the government, improper firearms storage, ownership of proscribed weapons, hunting law violations, and failure to pay taxes on guns. One may argue for or against the propriety of such measures, but one may no longer argue that they are the sole province of modern gun control advocates. Further, in the seventeenth century no less than in the twenty-first, an abiding concern underlying many, if not most, of these regulations is the protection of public safety by the government.

II

GUN LAWS ARE AS OLD AS THE NATION

The first formal legislative body created by European settlers in North America was convened in the Virginia colony on July 30, 1619, twelve years after the colony's establishment.¹⁰ The first General Assembly of Virginia met in Jamestown where it deliberated for five days and enacted a series of measures to govern the fledgling colony.¹¹ Among its more than thirty enactments in those few days was a gun control law, which said "[t]hat no man do sell or give any Indians any piece, shot, or powder, or any other arms offensive or defensive, upon pain of being held a traitor to the colony and of being hanged as soon as the fact is proved, without all redemption."¹²

If a death sentence for providing Native Americans with firearms and ammunition seems a little draconian even by the standards of the day, it punctuated the degree of tension, suspicion, and confrontation that existed

10. *First Legislative Assembly in America*, HISTORY.COM (2010), <http://www.history.com/this-day-in-history/first-legislative-assembly-in-america> [<https://perma.cc/3T2G-W3DH>] (last visited Dec. 21, 2016).

11. *Laws Enacted By The First General Assembly of Virginia*, in *COLONIAL ORIGINS OF THE AMERICAN CONSTITUTION* 283 (Donald S. Lutz ed., 1998) (quoting 1 JOURNALS OF THE HOUSE OF BURGESSES OF VIRGINIA, 9–14 (H.R. McIlwaine & John P. Kennedy eds., 1905)).

12. *Id.* at 287.

between the settlers and the indigenous population.¹³ Other colonies adopted similar measures, although they were of limited effectiveness—not only because of the difficulty of monitoring arms trading in early America, but because such trading was highly profitable, was fed by traders from other nations, including the French and the Dutch, and because many Native Americans allied themselves with settlers against various foes.¹⁴ Far from being an anomaly, this early gun law was just the beginning of gun regulations in early America.

III

THE ARC OF AMERICAN GUN LAWS

America's early governmental preoccupation with gun possession, storage, and regulation was tied to the overarching concern for public safety, even as it intruded into citizens' private gun ownership and habits. Symptomatic of this is the fact that colonial and state governments enacted over 600 laws pertaining specifically to militia regulation and related militia activities alone.¹⁵ Yet militia-related laws hardly constituted the extent of gun regulation in America.

A recently researched and compiled listing of colonial and state gun laws spanning from America's founding up to 1934 (the year the first significant national gun law, the National Firearms Act, was enacted¹⁶), has recently become available.¹⁷ It is by far the most comprehensive compilation to date. This far-reaching compilation process, conducted by lawyer and researcher Mark Anthony Frassetto, has become possible thanks to the ever-growing digitization of state law archives and other electronic sources of historical information about law, including HeinOnline Session Laws Library and the Yale Law School's Avalon Project, and also some digitized state session law archives. Aside from key-word electronic searches of these sources, Frassetto also consulted secondary sources to produce this prodigious list.¹⁸

The result is a compilation of nearly one thousand gun laws of every variety—with some exceptions, this list does not include militia laws, hunting regulations, laws pertaining to gunpowder storage, and laws against weapons firing.¹⁹ Following Frassetto's method of organization, these laws are organized by category and summarized in Table 1. Within those categories, they are arrayed

13. This precarious dynamic is well chronicled in NATHANIEL PHILBRICK, *MAYFLOWER: A STORY OF COURAGE, COMMUNITY AND WAR* (2006).

14. KENNETT & ANDERSON, *supra* note 9, at 51–56.

15. Kevin M. Sweeney, *Firearms, Militias, and the Second Amendment*, in *THE SECOND AMENDMENT ON TRIAL*, *supra* note 8, at 310–11.

16. National Firearms Act of 1934, Pub. L. No. 73-474, 48 Stat. 1236 (codified as amended at I.R.C. §§ 5801–5872 (2012)).

17. Mark Anthony Frassetto, *Firearms and Weapons Legislation Up To The Early Twentieth Century* (Jan. 15, 2013) (unpublished manuscript), <https://ssrn.com/abstract=2200991> [<https://perma.cc/YEY9-KEN8>]. Unless otherwise noted, the citations to colonial and state gun laws found here are taken from this compilation.

18. *Id.*

19. *Id.*

by state alphabetically within four historical periods: 1607–1789 (the colonial and pre-modern-Constitution period); 1790–1867 (the pre-Fourteenth Amendment period); 1868–1899 (the post-Fourteenth Amendment period); and 1900–1934 (the twentieth century). Despite the admirable thoroughness of Frassetto’s electronic database searches, he notes that his list cannot be considered definitive, owing to multiple spellings of common words and other glitches inherent in the nature of such searches.²⁰ Thus, his total list of laws is an underestimate of the actual universe of gun statutes—indeed, this article discusses a few early laws from Massachusetts in the 1600s that were not a part of Frassetto’s list.²¹

Table 1
NUMBERS OF GUN LAWS IN THE STATES, AND NUMBERS OF
STATE GUN LAWS, BY CATEGORIES, 1607–1934²²

LAW TYPE	1607–1790	1791–1867	1868–1899	1900–1934
Ban	0	0	7	0
Number of states	0	0	5	0
Brandishing	2	4	14	7
Number of states	2	3	13	7
Carry restriction	5	31	48	21
Number of states	4	19	28	18
Dangerous weapons	1	4	9	53
Number of states	1	4	8	35
Dueling	3	7	3	0
Number of states	2	7	3	0

20. *Id.* at 2.

21. I also conducted my own spot check of a few of the laws on Frassetto’s list that are not included in this article, and found them to be, taken on the whole, accurate and correct.

22. Source: Frassetto, *supra* note 17. Though the table is labeled “State” gun laws, it also includes laws enacted when the states were colonies, and some local/municipal laws. The full category titles of gun laws from Frassetto’s paper are: Bans on Handguns/Total Bans on Firearms; Brandishing; Carrying Weapons; Dangerous or Unusual Weapons; Dueling; Felons, Foreigners and Others Deemed Dangerous By the State; Firing Weapons; Hunting; Manufacturing, Inspection and Sale of Gunpowder and Firearms; Militia Regulation; Possession by, Use of, and Sales to Minors and Others Deemed Irresponsible; Registration and Taxation; Race and Slavery Based Firearms Restrictions; Sensitive Areas and Sensitive Times; Sentence Enhancement for Use of Weapons; Storage.

Felons, foreigners, etc.	11	2	1	26
Number of states	5	2	1	19
Firing weapons	19	17	19	22
Number of states	9	14	17	20
Hunting	11	8	24	58
Number of states	8	5	21	43
Manufacturing, inspection	2	11	11	22
Number of states	2	10	9	17
Militias	23	15	2	0
Number of states	11	15	2	0
Minors, etc.	0	2	15	21
Number of states	0	2	15	19
Registration, taxation	3	8	12	18
Number of states	2	6	11	15
Race/slavery ²³	5	18	0	0
Number of states	5	11	0	0
Sensitive areas, etc.	11	23	30	35
Number of states	7	17	20	26
Sentencing enhancement	3	3	5	12
Number of states	3	3	5	10
Storage	2	7	2	0
Number of states	1	6	2	0

23. The small number of laws pertaining to slaves or race-based restrictions pertaining to guns is not meant to suggest that the legal regime in the pre-Civil War South was somehow not uniformly harsh, but rather reflects the fact that express statutory restrictions were not necessary in all places, given the South's uniformly oppressive system of slavery.

The types of gun laws span about every conceivable category. The two most common and prolific types of laws regulated hunting and militias—in fact, Frassetto noted in his compilation that he excluded from his list most hunting and militia laws, gunpowder storage laws, and laws against the firing of weapons, because there were simply too many of them. Those categories and some of those laws, however, are represented in the list provided here. Thousands of gun laws existed from the country’s founding up to 1934.²⁴ The data presented here represents a subset of these thousands of laws. Notwithstanding Frassetto’s exclusions, his full list includes over 800 laws.²⁵ The version of his list presented here is somewhat shorter, as it excludes state constitutional provisions, weapons laws that did not specifically mention firearms, and British laws from the early colonial period that Frassetto included. Thus, the list presented here includes about 760 laws.²⁶ These include colonial laws, laws of territories that later became states, and of course state laws. Generally speaking, most laws established jurisdiction-wide regulations, although some of the laws were more narrowly drawn to include only densely populated areas, such as cities and towns, or on occasion specifically named cities or counties. Each type of law warrants detailed attention.

Before examining these laws, one other question presents itself: were any of these laws challenged in court? If so, were these challenges based on claims of federal or state right to bear arms-type provisions? If so, what were the outcomes?

A perusal of nineteenth century litigation in state courts reveals that at least one type of gun law was subject to court challenge: those restricting concealed or open gun carrying. The outcomes of such challenges were summarized by a 1905 Kansas state court decision this way: “It has . . . been generally held that the Legislatures can regulate the mode of carrying deadly weapons, provided they are not such as are ordinarily used in civilized warfare [i.e. in a military context]. To this view,” the court continued, “there is a notable exception in the early case of *Bliss v. Commonwealth*, 2 Litt. (Ky.) 90, 13 Am. Dec. 251 While this decision has frequently been referred to by the courts of other states, it has never been followed.”²⁷ A Washington State court from 1907 offered the same verdict:

Nearly all the states have enacted laws prohibiting the carrying of concealed weapons, and the validity of such laws has often been assailed, because denying to the citizen the right to bear arms; but we are not aware that such a contention has ever prevailed, except in the courts of the state of Kentucky [a reference to *Bliss*].²⁸

24. See Frassetto, *supra* note 17 (compiling over 800 gun laws excluding the majority of the most common gun laws including hunting and militia laws, gunpowder storage laws, and laws against the firing of weapons).

25. See *id.*

26. A full summary list of the laws is available at ROBERT J. SPITZER, GUNS ACROSS AMERICA: RECONCILING GUN RULES AND RIGHTS 185–208 (2015).

27. *City of Salina v. Blaksley*, 83 P. 619, 620 (Kan. 1905) (citing *Bliss v. Commonwealth*, 12 Ky. (2 Litt.) 90 (1822)).

28. *State v. Gohl*, 90 P. 259, 260 (Wash. 1907); see also *District of Columbia v. Heller*, 554 U.S. 570 (2008) (explaining that nineteenth-century courts typically upheld prohibitions on carrying a concealed

The *Bliss* case was the outlier in this state case law, although in one other case, *Nunn v. State*, the Georgia state court struck down a provision of a state gun carrying law that included restrictions on both concealed carry and open carry.²⁹ The court struck down only the open carry provision—the man convicted of violating this provision was apparently carrying a handgun openly, yet the law failed to list handguns among those weapons not to be openly carried, while it did list them among those not to be sold or carried concealed.³⁰

The conclusions offered by state courts that restrictions on gun carrying were invariably upheld when challenged is punctuated by the fact that, as late as 1981, only two states of the union had loose, “shall issue” carry laws (meaning that the government is obligated to issue a carry license upon completion of proper paperwork, unless the applicant is a felon, mentally unbalanced, or a part of some other category of person prohibited from owning a gun), and one state had no system of permitting for gun carrying.³¹ Nineteen states barred concealed gun carrying entirely, and twenty-eight states had “may issue” laws, where states have great discretion as to whether to issue carry permits.³²

IV

CATEGORIES OF EARLY GUN LAWS

A. Gun Bans

A handful of laws established outright, categorical bans that criminalized the sale or exchange of firearms.³³ All were enacted in the post–Civil War era. Six of the seven state bans—in Arkansas,³⁴ Kansas,³⁵ Texas,³⁶ and three in Tennessee³⁷—were of pistols. The seventh, from Wyoming, banned all firearms—both handguns and long guns—from “any city, town, or village.”³⁸ Arkansas also banned any sale or transfer of pistols, except for those in military use.³⁹

weapon).

29. *Nunn v. State*, 1 Ga. 243 (1846).

30. *Id.* at 246–47.

31. *Concealed Weapons Laws in America from 1981 to Today*, LAW CENTER TO PREVENT GUN VIOLENCE, at <http://smartgunlaws.org/wp-content/uploads/2012/05/ccw-factsheet.pdf> [https://perma.cc/5ZYV-HYSS].

32. SPITZER, *supra* note 26, at 113.

33. In some subsequent categories to be discussed, gun confiscation was sometimes the penalty for violations of law.

34. Act of Apr. 1, 1881, ch. XCVI, § 1, 1881 Ark. Acts 191, 191 (codified at ARK. CODE ANN. ch. 48 § 1498 (1894)).

35. Act of Mar. 13, 1872, ch. 100, § 62, 1872 Kan. Sess. Laws 210, 210 (codified at KAN. GEN. STAT. § 1003 (1901)).

36. Act of Apr. 12, 1871, ch. XXXIV, § 1, 1871 Tex. Gen. Laws 25, 25 (codified at 1879 Tex. Crim. Stat. 24).

37. Act of Mar. 26, 1879, ch. CLXXXVI, § 1, 1879 Tenn. Pub. Acts 231, 231; Act of June 11, 1870, ch. XIII, § 1, 1870 Tenn. Pub. Acts 28, 28; Act of Dec. 1, 1869, ch. XXII, § 2, 1870 Tenn. Pub. Acts 23, 23–24.

38. Act of Dec. 2, 1875, § 1, 1876 Wyo. Sess. Laws 352, 352.

39. Act of Apr. 1, 1881, ch. XCVI, 1881 Ark. Acts 191 (codified at ARK. CODE ANN. ch. 48 § 1498

Subsequent categories of gun laws also include specific bans on particular types of weapons, like automatic weapons, and on weapons accessories, like silencers. These laws, and a few to come, make clear that gun banning—while not common—was not the sole province of 1960s anti-gun liberals.

B. Brandishing Laws

States also enacted brandishing laws, designed to criminalize the threatening use of the weapons named in these laws.⁴⁰ The prohibited behaviors were typically described as “exhibit[ing] any of said deadly weapons in a rude, angry or threatening manner,”⁴¹ or with similar language. Some laws in the later 1800s also identified the prohibited behavior as “draw[ing] or threaten[ing] to use” such weapons.⁴² These laws also generally included exemptions for the use of such weapons in personal self-defense or for military purposes.

C. Gun Carry Restrictions

Carry restriction laws were widely enacted, spanning the entire historical period under examination. As early as 1686, New Jersey enacted a law against wearing weapons because they induced “great Fear and Quarrels.”⁴³ Massachusetts followed in 1750.⁴⁴ In the late 1700s, North Carolina⁴⁵ and Virginia⁴⁶ passed similar laws.⁴⁷ In the 1800s, as interpersonal violence and gun carrying spread, thirty-eight states joined the list;⁴⁸ five more did so in the early

(1894)).

40. Generally, these laws covered pistols along with specific, named knives used for interpersonal violence, such as dirks, sword canes, stiletos, and Bowie knives, and weapons like a “slung shot,” which was a hand weapon made up of a piece of metal or other weight attached to a strap or flexible handle.

41. Act of Sept. 30, 1867, § 1, 1867 Ariz. Sess. Laws 21, 21.

42. Act of Mar. 13, 1875, ch. XVII, § 1, 1875 Ind. Acts 62, 62 (Spec. Sess.).

43. Robert J. Spitzer, *Stand Your Ground Makes No Sense*, N.Y. TIMES (May 4, 2015), <http://www.nytimes.com/2015/05/04/opinion/stand-your-ground-makes-no-sense.html> [https://perma.cc/Z7NY-84UL] (quoting *An Act Against Wearing Swords*, (1686), in THE GRANTS, CONCESSIONS, AND ORIGINAL CONSTITUTIONS OF THE PROVINCE OF NEW JERSEY, 289 (1758)).

44. Act of Feb. 14, 1750, ch. 17, § 1, 1750 Mass. Acts 544, 545.

45. FRANCOIS XAVIER MARTIN, A COLLECTION OF THE STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH CAROLINA 60–61 (1792).

46. A COLLECTION OF ALL SUCH ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA, OF A PUBLIC AND PERMANENT NATURE, AS ARE NOW IN FORCE 33 (Richmond, Augustine Davis 1794).

47. See Spitzer, *supra* note 43 (discussing these early laws).

48. Laws from 1800–1867: Alabama: An Act of Feb. 1, 1839, no. 77, § 1, 1838 Ala. Laws 67; Arkansas: ARK. REV. STAT. div. VIII, ch. XLIV, art. I, § 13 (1837); California: Act of Apr. 16, 1850, ch. 99, div. Eleventh, § 127, 1850 Cal. Stat. 229, 245; Colorado: Act of Aug. 14, 1862, 1862 Colo. Sess. Laws 56; Delaware: DEL. REV. CODE tit. fifteenth, § 13 (1852); District of Columbia: D.C. CODE REV. § 141–16 (1857); Georgia: Act of Dec. 25, 1837, 1837 Ga. Laws 90; Indiana: Act of Jan. 14, 1820, ch. XXIII, 1820 Ind. Acts 39; Kentucky: Act of Feb. 3, 1813, ch. 89, § 1, 1812 Ky. Acts 100, 100–01; Louisiana: Act of Mar. 25, 1813, 1813 La. Acts 172, 172–73; Maine: ME. STAT. REV. tit. twelfth, ch. 169, § 16 (1840); Montana: Act of Jan. 11, 1865, 1864 Mont. Laws 355; New Mexico: Act of Jan. 14, 1853, 1852 N.M. Laws 67; Ohio: Act of Mar. 18, 1859, 1859 Ohio Laws 56; Oregon: OR. REV. STAT. ch. XVI, § 17 (1853); Pennsylvania: Act of Apr. 8, 1851, no. 239, § 4, 1851 Pa. Laws 381, 382; Tennessee: Act of Oct. 19, 1821, ch. XIII, 1821 Tenn. Pub. Acts 15, 15–16; Wisconsin: WIS. STAT. REV. tit. XXVII, ch. 176, § 18 (1858). Laws from 1868–1899: Alaska: FRED F. BARKER, COMPILATION OF THE ACTS OF CONGRESS AND TREATIES RELATING

1900s.⁴⁹ Laws in the eighteenth century did not typically identify weapons concealment as criminal per se, but did restrict more general carrying of firearms, usually if done in crowded places, or groups of armed people. Among the earliest laws criminalizing the carrying of concealed weapons was that of Kentucky in 1813.⁵⁰ As with the brandishing laws, concealed carry laws normally targeted pistols as well as various knives, the chief feature of which was that they had long, thin blades that were favorites in interpersonal fights. Louisiana enacted a similar law that same year.⁵¹ A particularly sharp comment on the intent behind such laws was expressed in Tennessee's 1837 law, which referred to "[e]ach and every person so degrading himself" by carrying pistols or other named weapons.⁵² The preamble of Georgia's 1837 law began: "AN ACT to guard and protect the citizens of this State, against the unwarrantable and too prevalent use of deadly weapons."⁵³ Alabama's 1839 concealed carry law reflected similar antipathy to the practice it was prohibiting: "AN ACT To suppress the evil practice of carrying weapons secretly."⁵⁴ Concealed carry laws generally made exceptions for travelers passing through an area while armed.

These laws were enacted in most states of the union and all across the country, including territories. In nineteenth-century laws, the main emphasis was on prohibiting concealed carry, whereas early twentieth century laws generally

TO ALASKA FROM MARCH 30, 1867 TO MARCH 3, 1905, S. DOC. NO. 59-142 (1906); Arizona: Act of Mar. 18, 1889, no. 13, 1889 Ariz. Sess. Laws 16; Florida: Act of May 31, 1887, ch. 3777, no. 97, § 16 1887 Fla. Laws 181, 186; Illinois: Act of Apr. 16, 1881, 1881 Ill. Laws 73 (codified in 38 ILL. COMP. STAT. §54(d) (1882)); Kansas: KAN. STAT. ANN. ch. 19, art. 3, § 68 (1901); Maryland: Act of Feb. 26, 1872, ch. 42, 1872 Md. Laws 56; Michigan: Act of May 31, 1887, no. 129, 1887 Mich. Pub. Acts 144; Minnesota: MINN. STAT. ch. CIV, § 17 (1881) (as amended through 1878); Mississippi: Act of Feb. 28, 1878, ch. XLVI, § 1, 1878 Miss. Laws 175, 175; Missouri: Act of Mar. 3, 1873, art. III, § 15, 1873 Mo. Laws 322, 328; NEB. STAT. REV. pt. III, ch. V, § 25 (1881); New York: Act of Mar. 27, 1891, chap. 105, § 209, 1891 N.Y. Laws 127, 177; North Dakota: N.D. REV. CODE § 7313, N.D. PENAL CODE § 457 (1895); Oklahoma: Penal Code of the Territory of Oklahoma, ch. 25, art. 38, § 20, 1890 Okla. Sess. Laws 412, 476; Rhode Island: Act of May 3, 1893, ch. 1180, 1893 R.I. Pub. Laws 231; South Carolina: Act of Dec. 24, 1880, no. 362, § 1, 1880 S.C. Acts 448; South Dakota: S.D. REV. CODE, PENAL, ch. XXXVIII, § 457 (1883); Texas: Act of Aug. 12, 1870, ch. XLVI, 1870 Tex. Gen. Laws 63; Washington: WASH. REV. CODE ch. LXXIII, § 929 (1881); West Virginia: W. VA. CODE ch. CXLVIII, § 7 (1870); Wyoming: WYO. STAT. ch. LII, § 1 (1876).

49. Connecticut: Act of June 2, 1923, ch. 252, 1923 Conn. Pub. Acts 3707 (codified in II CONN. GEN. STAT. tit. 59, § 6219 (1930)); Hawaii: Act of Mar. 19, 1913, no. 22, 1913 Haw. Sess. Laws 25; Idaho: Act of Feb. 17, 1909, H.R. 62, 1909 Idaho Sess. Laws 6; Iowa: Act of Apr. 16, 1929, ch. 57, § 30, 1929 Iowa Acts 81, 90; Nebraska: Act of Mar. 27, 1901, ch. 16, § 129-LV, 1901 Neb. Laws 71, 141 (codified at NEB. REV. STAT. part I, ch. 14, art. I, § XXV (1901)).

50. This Kentucky law was struck down as a violation of the Kentucky state constitution in *Bliss v. Commonwealth*, 12 Ky. (2 Litt.) 90 (1822). The court's decision did not involve or touch on the federal Constitution's Second Amendment, but instead was based on Kentucky's more expansive right-to-bear-arms-type provision. *See id.* at 90–92. In addition, this ruling was an anomaly in that concealed carry laws were widely held as constitutional when challenged in other states. *See* ROBERT J. SPITZER, *GUN CONTROL*, 96–99 (2009) (noting that the *Bliss* case was an exception to the prevailing trend of upholding state gun carry restrictions).

51. Act of Mar. 25th, 1813, 1812 La. Acts 172.

52. Tennessee: Act of Oct. 19, 1821, ch. XIII, 1821 Tenn. Pub. Acts 15.

53. Act of Dec. 25, 1837, 1837 Ga. Laws 90. This was the law that was challenged in *Nunn v. State*, discussed *supra* in part III.

54. An Act of Feb. 1, 1839, no. 77, 1838 Ala. Laws 67.

applied to all carrying, whether concealed or open. Aside from hunting and militia laws, they were among the most common and widely accepted gun regulations to be found in our post-1789 history. These laws therefore pose an especially stark contrast with the contemporary American political movement—dating to the early 1980s—spreading the legality of concealed carry.⁵⁵

Many southern states were among those seeking to curtail gun carrying, as well as the enactment of other laws pertaining to criminal uses of guns, which is attributable to the fact that “the Antebellum South was the most violent region in the new nation.”⁵⁶ After the Civil War, the ravaged South again witnessed violence at rates greater than the rest of the country.⁵⁷ Thus, states with greater violence, in the form of greater gun violence, turned in part to stronger gun laws as a remedy.

These historical concealed carry laws also recognized what modern gun control advocates stress: that, among all firearms, handguns pose a unique danger to public safety. Even though there are twice as many long guns as handguns in America, and long guns are generally easier to obtain, about eighty percent of all gun crimes are committed with handguns because of their ease of use, concealability, and lethality.⁵⁸ Little stretch of the imagination is required to infer that the same trend existed in the nineteenth century as well.

Before considering other types of gun laws, it should be noted that concealed and open carry restrictions were common in the American western frontier during the nineteenth century in the so-called “Wild West.” The truth of life in the Old West, and the actual role of guns in it, is known, but not well known. Axiomatic expressions such as “the guns that won the West”⁵⁹ and “arm[s] that opened the West and tamed the wild land”⁶⁰ still too often typify what in actuality is a romanticized and wildly exaggerated assessment of the importance of guns in the settling of the West.⁶¹ Indeed, some have gone so far as to claim that “the American experiment was made possible by the gun.”⁶² But these characterizations ignore the central role of homesteaders, ranchers, miners,

55. ROBERT J. SPITZER, *THE POLITICS OF GUN CONTROL*, 68–70 (6th ed., Paradigm Publishers 2015) (1995).

56. Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities*, 39 *FORDHAM URB. L.J.* 1695, 1716 (2012) (citing RANDOLPH ROTH, *AMERICAN HOMICIDE* (2009); ERIC H. MONKKONEN, *MURDER IN NEW YORK CITY* (2001); Joshua Stein, *Privatizing Violence: A Transformation in the Jurisprudence of Assault*, 30 *LAW & HIST. REV.* 423, 445 (2012)); see generally DICKSON D. BRUCE, JR., *VIOLENCE AND CULTURE IN THE ANTEBELLUM SOUTH* (1979).

57. ROTH, *supra* note 56, at 180–249.

58. SPITZER, *supra* note 55, at 54–55.

59. JAMES WYCOFF, *FAMOUS GUNS THAT WON THE WEST* (1968).

60. MARTIN RYWELL, *THE GUN THAT SHAPED AMERICAN DESTINY* (1957).

61. RICHARD SHENKMAN, *LEGENDS, LIES, AND CHERISHED MYTHS OF AMERICAN HISTORY* 112 (1988).

62. WYCOFF, *supra* note 59, at 5–6; see also RYWELL, *supra* note 60, at 4 (1957); JAMES B. TREFETHEN, *AMERICANS AND THEIR GUNS: THE NATIONAL RIFLE ASSOCIATION STORY THROUGH NEARLY A CENTURY OF SERVICE TO THE NATION* (James E. Serven ed., 1967); HAROLD F. WILLIAMSON, *WINCHESTER: THE GUN THAT WON THE WEST* 3 (1952).

tradesmen, businessmen, and other settlers across the western plains. The “taming” of the West was in fact an agricultural and commercial movement, attributable primarily to ranchers and farmers, not gun-slinging cowboys.⁶³ In fact, the six-shooter and rifle played relatively minor roles in the activities of all these groups—even the cowboys.⁶⁴ According to historian Richard Shenkman:

The truth is many more people have died in Hollywood westerns than ever died on the real frontier In the real Dodge City, for instance, there were just five killings in 1878, the most homicidal year In the most violent year in Deadwood, South Dakota, only four people were killed. In the worst year in Tombstone, home of the shoot-out at the OK Corral, only five people were killed. The only reason the OK Corral shoot-out even became famous was that town boosters deliberately overplayed the drama to attract new settlers.⁶⁵

Even in the most violence-prone western towns, vigilantism and lawlessness were only briefly tolerated. In his sweeping history of the West, historian Ray Allen Billington noted that local businesspeople and other leaders quickly pushed for town incorporation in order to establish local police forces, which were supported by taxes levied against local bars, gambling establishments, and houses of prostitution.⁶⁶ The prohibitions against carrying guns analyzed here were enforced, and there were few homicides.⁶⁷ The western-style shoot-outs glorified in countless books and movies were literally “unheard of.”⁶⁸ In the most violent cow towns of the old West—Abilene, Caldwell, Dodge City, Ellsworth, and Wichita—a total of forty-five killings were recorded between 1870 and 1885, and only six of these killings were from six-shooters; sixteen killings were by police.⁶⁹ As cowboy experts Joe B. Frantz and Julian E. Choate observed, “the six-shooter has been credited with use entirely disproportionate with the facts.”⁷⁰

Even western outlaws illustrate the extent to which myth replaced fact with respect to guns and lawlessness. Many studies of the famed western outlaws demonstrate that “they were few, inconspicuous, and largely the invention of newspaper correspondents and fiction writers.”⁷¹ Moreover, “the western marshall [was] an unglamorous character who spent his time arresting drunks or rounding up stray dogs and almost never engaging in gun battles.”⁷² Most of the killing that took place on the frontier involved the wars between the U.S. Cavalry

63. LEWIS ATHERTON, *THE CATTLE KINGS*, xi, 31–42, 241–62 (1961).

64. PAMELA HAAG, *THE GUNNING OF AMERICA: BUSINESS AND THE MAKING OF AMERICAN GUN CULTURE* 353–55 (2016).

65. RICHARD SHENKMAN, *LEGENDS, LIES, AND CHERISHED MYTHS OF AMERICAN HISTORY* 112 (1988); *see also* ROBERT R. DYKSTRA, *THE CATTLE TOWNS* 112–48 (1968) (detailing the exaggerated nature of frontier West violence).

66. RAY ALLEN BILLINGTON, *WESTWARD EXPANSION* 587 (6th ed. abr. 1974).

67. JOE B. FRANTZ & JULIAN ERNEST CHOATE JR., *THE AMERICAN COWBOY: THE MYTH AND THE REALITY* 78 and *passim* (1955).

68. BILLINGTON, *supra* note 66, at 587.

69. *Id.*

70. FRANTZ & CHOATE JR., *supra* note 67, at 78.

71. BILLINGTON, *supra* note 66, at 587.

72. *Id.*; *see also* FRANK RICHARD PRASSAL, *THE WESTERN PEACE OFFICER: A LEGACY OF LAW AND ORDER* 22 (1972), and the numerous works cited by BILLINGTON, *supra* note 66.

and those Native Americans who rebelled against harsh and duplicitous treatment at the hands of whites.⁷³

D. Restrictions On Dangerous Or Unusual Weapons

States moved to enact laws restricting or barring certain dangerous or unusual weapons—also a subject that has contemporary reverberations. Such laws in the country’s early decades were aimed in part at pistols and offensive knives, like most concealed carry laws, but also at the practice of rigging firearms to be fired with a string or similar method to discharge a weapon without an actual finger on the firearm trigger. Referred to as “gun traps,” the earliest such law was enacted by New Jersey in 1771.⁷⁴ Some laws later referred to such weapons as “spring guns,”⁷⁵ “trap guns,”⁷⁶ and “infernal machines.”⁷⁷

The bulk of the laws that identified certain weapons as dangerous or unusual, however, appeared in the early 1900s, when most states moved aggressively to outlaw machine guns (usually meaning fully automatic weapons), sawed-off shotguns, pistols, weapons and mechanisms that allowed firearms to be fired a certain number of times rapidly without reloading, silencers, and air guns (which propels projectiles with compressed air rather than gun powder). The first state to enact an anti-machine gun law was West Virginia in 1925.⁷⁸ A number of states enacted anti-machine gun laws in 1927 alone—a year in which a concerted national push unfolded to regulate these and other gangster-type weapons. In all, at least twenty-eight states enacted anti-machine gun laws during this period.⁷⁹

73. RICHARD W. STEWART, *AMERICAN MILITARY HISTORY VOL. 1: THE UNITED STATES ARMY AND THE FORGING OF A NATION* 321–40 (2005); W. EUGENE HOLLON, *FRONTIER VIOLENCE: ANOTHER LOOK* 124–45 (1974). Hollon notes that “of all the myths that refuse to die, the hardest concerns the extent of the unmitigated bloodletting that occurred in the Western frontier during the closing decades of the nineteenth century.” *Id.* at x.

74. Act of Dec. 21, 1771, ch. DXL, § 10, 1771 N.J. Laws 343, 346.

75. Act of Apr. 21, 1915, ch. 133, part II, §§17(c), 18, 1915 N.H. Laws 173, 180–81.

76. Act of Feb. 25, 1931, no. 58, 1931 S.C. Acts 78, 78.

77. *E.g.*, Act of Mar. 14, 1901, ch. 96, 1901 Utah Laws 97, 97.

78. Act of June 5, 1925, ch. 3, 1925 W. Va. Acts 24.

79. Act effective July 29, 1927, ch. 552, 1927 Cal. Stat. 938; Act of Feb. 25, 1931, ch. 249, 37 Del. Laws 813; Act of Apr. 27, 1933, no. 120, 1933 Haw. Sess. Laws 117; Act of July 2, 1931, 1931 Ill. Laws 452; Act of Mar. 27, 1927, ch. 156, 1927 Ind. Acts 469; Act of Apr. 19, ch. 234, 1927 Iowa Acts 201; Act of Nov. 28, 1933, ch. 62, 1933 Kan. Sess. Laws 76 (Spec. Sess.); Act of July 7, 1932, no. 80, 1932 La. Acts 336; Act of Apr. 27, 1927, ch. 326, 1927 Mass. Acts 413; Act of June 2, 1927, no. 372, 1927 Mich. Pub. Acts 887; Act of Apr. 10, 1933, ch. 190, 1933 Minn. Laws 231; Act of June 1, 1929, H.R. no. 498, 1929 Mo. Laws 170; Act of Apr. 29, 1929, ch. 190, 1929 Neb. Laws 673; Act of Mar. 19, 1927, ch. 95, 1927 N.J. Laws 180; Act of Apr. 15, 1931, ch. 435, 1931 N.Y. Laws 1033; Act of Mar. 9, 1931, ch. 178, 1931 N.D. Laws 305; Act of Apr. 8, 1933, no. 64, 1933 Ohio Laws 189; Act of Mar. 10, 1933, ch. 315, § 3, 1933 Or. Laws 488, 489; Act of Apr. 25, 1929, no. 329, 1929 Pa. Laws 777; Act of Apr. 22, 1927, ch. 1052, 1927 R.I. Pub. Laws 256; Act of Mar. 2, 1934, no. 731, 1934 S.C. Acts 1288; Uniform Machine Gun Act, ch. 206 §§ 1–5, 1933 S.D. Sess. Laws 245; Act of Oct. 25, 1933, ch. 82, 1933 Tex. Gen. & Spec. Laws 219; Act of Mar. 7, 1934, ch. 96, 1934 Va. Acts 137; Act of Mar. 6, 1933, ch. 64, 1933 Wash. Sess. Laws 335; Act of June 5, 1925, 1925 W. Va. Acts 24 (Extraordinary Sess.); Act of May 28, 1929, ch. 132, 1929 Wis. Sess. Laws 157.

Texas, for example, defined machine guns in 1933 as those from which more than five bullets were automatically discharged “from a magazine by a single functioning of the firing device.”⁸⁰

The lesson here is significant both for its historical context and for the contemporary debate over the regulation of new or exotic gun technologies. In these instances, new laws were enacted not when these weapons were invented, but when they began to circulate widely in society. So, for example, fully automatic weapons, most famously the Tommy gun, became available for civilian purchase after World War I.⁸¹ But it was only when ownership spread in the civilian population in the mid-to-late 1920s, and the gun became a preferred weapon for gangsters, that states moved to restrict them. The lesson of gun regulation history here is that new technologies bred new laws when circumstances warranted.

E. Semi-Automatic Gun Restrictions

Of particular relevance to the modern gun debate is the fact that at least seven, and as many as ten, state laws specifically restricted semi-automatic weapons—weapons that fire a round with each pull of the trigger without manual reloading⁸²—anticipating by seven decades the semi-automatic assault weapons ban debates, and related efforts to restrict large capacity bullet magazines, from the 1990s to the present.

States with laws in this category typically combined fully automatic and semi-automatic weapons under a single definitional category.⁸³ A 1927 Rhode Island measure defined the prohibited “machine gun” to include “any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading.”⁸⁴ To compare, a 1927 Massachusetts law said: “Any gun or small arm calibre designed for rapid fire and operated by a mechanism, or any gun which operates automatically after the first shot has been fired . . . shall be deemed a machine gun . . .”⁸⁵ Michigan’s 1927 law prohibited machine guns or any other firearm if they fired more than sixteen times without reloading.⁸⁶ Minnesota’s 1933 law outlawed “[a]ny firearm capable of automatically reloading after each shot is fired, whether firing singly by separate trigger pressure or firing continuously by continuous trigger pressure.”⁸⁷ It went on to penalize the modification of weapons that were altered to accommodate such extra firing capacity.⁸⁸ Fully automatic .22 caliber “light sporting rifles” were

80. 1933 Tex. Gen. & Spec. Laws 219, 219.

81. NRA-ILA, *Fully-Automatic Firearms*, NRAILA.ORG, (July 29, 1999), <https://www.nraila.org/articles/19990729/fully-automatic-firearms> [<https://perma.cc/NT68-ZEF6>].

82. See Table 2.

83. See Table 2, laws of Mass., Mich., S.D., and Va.

84. 1927 R.I. Pub. Laws 256, 256.

85. 1927 Mass. Acts 413, 413–14.

86. Act of June 2, 1927, no. 372, 1927 Mich. Pub. Acts 887, 888.

87. Act of Apr. 10, 1933, ch. 190, 1933 Minn. Laws 231, 232.

88. *Id.*

also considered machine guns under the law, but .22 caliber semi-automatic “light sporting rifles” were exempted.⁸⁹ Ohio also barred both fully automatic and semi-automatic weapons in a 1933 law, incorporating under the banned category any gun that “shoots automatically, or any firearm which shoots more than eighteen shots semi-automatically without reloading.”⁹⁰ The law defined semi-automatic weapons as those that fired one shot with each pull of the trigger.⁹¹ South Dakota barred machine guns by defining them as weapons “from which more than five shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine”⁹² Like several other states, Virginia outlawed weapons

of any description . . . from which more than seven shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device, and also applies to and includes weapons, loaded or unloaded, from which more than sixteen shots or bullets may be rapidly, automatically, semi-automatically, or otherwise discharged without reloading.⁹³

Aside from these seven states, another three included language that was ambiguous as to whether they extended prohibitions to semi-automatic as well as fully automatic weapons. Illinois enacted a 1931 law that prohibited “machine guns and sub-machine guns of any calibre whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which ammunition is fed to such gun from or by means of clips, disks, belts, or other separable mechanical devices.”⁹⁴ Louisiana’s 1932 anti-machine gun law,⁹⁵ and South Carolina’s 1934 law,⁹⁶ both defined machine guns in the same way using identical language, including the eight cartridge standard. In the case of these three laws, the word “automatically” would seem to refer to fully automatic firing, but when that wording is married with “discharging more than eight cartridges successively without reloading,” it would seem to encompass semi-automatic firing as well.

Table 2 summarizes the key portions of the laws from these ten states. The lesson of the previous part also applies here: new technologies bred new restrictions. And who would have guessed that the fierce controversy over regulating semi-automatic assault weapons in the 1990s and 2000s was presaged by the successful, and at the time obviously uncontroversial, regulation of semi-automatic weapons in the 1920s and 1930s.

89. *Id.*

90. Act of Apr. 8, 1933, no. 64, 1933 Ohio Laws 189, 189.

91. *Id.*

92. Uniform Machine Gun Act, ch. 206, 1933 S.D. Sess. Laws 245, 245.

93. Act of Mar. 7, 1934, ch. 96, 1934 Va. Acts 137, 137.

94. Act of July 2, 1931, 1931 Ill. Laws 452, 452.

95. Act of July 7, 1932, no. 80, 1932 La. Acts 336.

96. Act of Mar. 2, 1934, no. 731, 1934 S.C. Acts 1288.

Table 2
STATE LAWS BARRING
SEMI-AUTOMATIC WEAPONS, 1927–1934⁹⁷

STATE AND YEAR	PROVISION OF LAW
Massachusetts 1927	“rapid fire and operated by a mechanism”
Michigan 1927	“any machine gun or firearm which can be fired more than sixteen times without reloading”
Minnesota 1933	“[a]ny firearm capable of automatically reloading after each shot is fired, whether firing singly by separate trigger pressure or firing continuously by continuous trigger pressure.”
Ohio 1933	“any firearm which shoots automatically, or any firearm which shoots more than eighteen shots semi-automatically without reloading.”
Rhode Island 1927	“any weapon which shoots automatically and any weapon which shoots more than twelve shots semi-automatically without reloading.”
South Dakota 1933	“a weapon of any description . . . from which more than five shots or bullets may be rapidly or automatically, or semi-automatically discharged from a magazine.”
Virginia 1933	“a weapon of any description . . . from which more than seven shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device, and also applies to and includes weapons, loaded or unloaded, from which more than sixteen shots or bullets may be rapidly, automatically, semi-automatically, or otherwise discharged without reloading.”

97. Source: Act of Apr. 27, 1927, ch. 326, 1927 Mass. Acts 413, 413; Act of June 2, 1927, No. 372, 1927 Mich. Pub. Acts 887, 888; Act of Apr. 10, 1933, ch. 190, 1933 Minn. Laws 231, 232; Act of Apr. 8, 1933, no. 64, 1933 Ohio Laws 189, 189; Act of Apr. 22, 1927, ch. 1052, 1927 R.I. Pub. Laws 256, 256; Uniform Machine Gun Act, ch. 206, § 1, 1933 S.D. Sess. Laws 245, 245; Act of Mar. 7, 1934, ch. 96, § 1, 1934 Va. Acts 137, 137; Act of July 2, 1931, § 1, 1931 Ill. Laws 452, 452; Act of July 7, 1932, no. 80, § 1, 1932 La. Acts 336, 337; Act of Mar. 2, 1934, no. 731, § 1, 1934 S.C. Acts 1288, 1288.

AMBIGUOUS STATE LAWS	
Illinois 1931	“machine guns and sub-machine guns of any caliber whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which ammunition is fed to such gun from or by means of clips, disks, belts, or other separable mechanical devices.”
Louisiana 1932	“machine rifles, machine guns and sub machine guns of any caliber whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which ammunition is fed to such gun from or by means of clips, disks, belts, or other separable mechanical device.”
South Carolina 1934	“machine rifles, machine guns and sub-machine guns of any caliber whatsoever, capable of automatically discharging more than eight cartridges successively without reloading, in which ammunition is fed to such gun from or by means of clips, disks, belts or other separable mechanical device.”

F. Dueling Prohibitions

A well-known category of gun laws with ties to American history is the prohibition against dueling. Prominent public figures from early American history, including Alexander Hamilton and Andrew Jackson, found themselves in highly publicized duels.⁹⁸ Hamilton’s longstanding political feud with fellow New York politician Aaron Burr ended when the two men dueled in New Jersey in 1804.⁹⁹ Hamilton died from his wounds, and Burr’s political career never recovered.¹⁰⁰ Jackson engaged in several duels, and was even injured during one

98. DON C. SEITZ, FAMOUS AMERICAN DUELS (1929).

99. Burr was vice president at the time; New York barred dueling, so they traveled to the neighboring state. LIN-MANUEL MIRANDA, *“Blow Us All Away,” “Your Obedient Servant,” “The World Was Wide Enough,”* on HAMILTON: AN AMERICAN MUSICAL, ACT II, (Atlantic Records 2015).

100. RON CHERNOW, ALEXANDER HAMILTON 704–05, 717–22 (2004).

in 1806.¹⁰¹ Though not barred in every state, the practice declined in the North after the Hamilton–Burr duel, but persisted in the South until the mid-nineteenth century.¹⁰²

G. Felons, Foreigners, Others Considered Dangerous

Early gun laws aimed at preventing felons, foreigners, or others deemed dangerous from owning firearms focused on Native Americans, with at least five colonies enacting such laws¹⁰³—including the 1619 Virginia law cited earlier.¹⁰⁴ The Massachusetts colony enacted a law in 1637 that required named individuals who expressed “opinions & revelations” that “seduced & led into dangerous errors many of the people” of New England to turn in all “guns, pistols, swords, powder, shot, & match,” and it further barred them from “buy[ing] or borrow[ing]” any of the same until such time as the local court said otherwise.¹⁰⁵ If those disarmed admitted to their “seditious libel,” they could have their weapons restored.¹⁰⁶ In the 1770s, Pennsylvania enacted a law to bar or strip guns from those who refused to swear loyalty to the new American government.¹⁰⁷ In fact, ten of the thirteen states had laws allowing the impressment—that is, taking—of privately held firearms during the Revolutionary War.¹⁰⁸ Massachusetts also enacted such a law in 1776, although it does not appear in Frassetto’s list.¹⁰⁹ By the early 1900s, as anti-immigrant sentiment spread, many states enacted laws aimed at keeping guns from non-citizens, as well as the young, those who were inebriated, felons and other criminals, and non-state residents.

H. Firing Location Restrictions

Concerns over the inherent harm and risk attendant to the firing of weapons near others spawned a steady stream of laws prohibiting such acts from the 1600s

101. SPITZER, *supra* note 26.

102. ROTH, *supra* note 56, at 181.

103. Act of May 9, 1723, 1723 Conn. Pub. Acts 292; Act of Mar. 31, 1639, 1639 N.J. Laws 18 *reprinted in* LAWS AND ORDINANCES OF NEW NETHERLAND, 1638–1674 (Edmund Bailey O’Callaghan, ed., 1868); Act of Feb. 23, 1645, 1645 N.Y. Laws 47 *reprinted in* LAWS AND ORDINANCES OF NEW NETHERLAND, 1638–1674 (Edmund Bailey O’Callaghan, ed., 1868); Pennsylvania Act of Oct. 22, 1763 *reprinted in* VI THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, 319 (James T. Mitchell & Henry Flanders eds., 1899); Virginia Act of Feb. 24, 1631, Act. XLVI, *reprinted in* I THE STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE 173 (William Waller Henning ed., 1823).

104. *The Laws Enacted by the First General Assembly of Virginia*, *supra* note 11.

105. I RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 211–12 (Nathaniel B. Shurtleff ed., 1853). This law was not among those appearing in Frassetto’s list. *See* Frassetto, *supra* note 17.

106. RECORDS OF THE GOVERNOR, *supra* note 105, at 212.

107. Act of July 19, 1776, ch. DCCXXIX, IX THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, 11 (1903).

108. WINKLER, *supra* note 8, at 113.

109. Saul Cornell & Nathan DeDino, *A Well Regulated Right*, 73 FORDHAM L. REV. 487, 507 (2004). The Massachusetts law is Act of March 14, 1776, ch. VII, 1776 Mass. Acts 31–36. *See* Frassetto, *supra* note 17.

through the early 1900s. Early such laws prohibited not only the firing of firearms in or near towns, but firing after dark, on Sundays, or near roads.¹¹⁰ Early laws also punished firing that wasted gunpowder, or that occurred while under the influence of alcohol.¹¹¹ A North Carolina law from 1774 barred hunting by firelight at night, citing this concern in its preamble: “WHEREAS many Persons under Pretence of Hunting for Deer in the Night, by Fire Light, kill Horses and Cattle, to the Prejudice of the Owners thereof.”¹¹² In the 1800s and 1900s, such laws were focused almost exclusively on firing in, around, or near towns or other populated areas or events.

I. Hunting Restrictions

Hunting laws are significant for the extent to which early ones reflect contemporary concerns. Though one imagines the America of the seventeenth to the nineteenth centuries as a nation little concerned—or not needing to be concerned—about matters related to wildlife management, safe hunting practices, or the like, these concerns are expressed early in American legislative histories, for example in the legislative history for the North Carolina night-time hunting law just quoted. Early hunting laws were aimed at those who hunted on private lands or in preserves, those who hunted certain types of game, most notably water fowl—often tied to prohibitions against hunting of such game from canoes, skiffs, or other water craft—and even the common deer.¹¹³ For example, it comes as something of a revelation to note that Pennsylvania established a deer hunting season, penalizing out-of-season hunting, as early as 1721,¹¹⁴ and North Carolina as early as 1768.¹¹⁵ The penalty for violation of the North Carolina law was a fine of five pounds and “forfeiture of his gun.”¹¹⁶ Hunting even in this early period also sometimes required a license.¹¹⁷ Similarly, laws in the 1800s also restricted what was by then termed “fire-hunting,” hunting by firelight at night, poaching on private lands, and the use of certain restricted weapons, such as a “punt gun” or “swivel gun,” defined as a smooth bored gun mounted on a swivel that fires a charge of shot to bring down water fowl, or any weapon not fired from the shoulder.¹¹⁸ Measures were also enacted to protect certain game, to require

110. Act of Oct. 1672, 1672 Conn. Pub. Acts 3; Act of Aug. 27, 1746, 1746 Mass. Acts 208; Act of Oct. 14, 1713, 1713 Mass. Acts 291; Act of Mar. 3, 1642, Act XXXV, 1642 Va. Acts 261.

111. Though a 1655 Virginia law specifically exempted drunken firing at weddings and funerals! Act of March 10, 1655, Act XII, 1655 Va. Acts 401.

112. This quote is from North Carolina’s 1777 version of this law, Act of May 8, 1777, ch. XXI, 1777 N.C. Sess. Laws, 33, 33.

113. 9 Del. Laws 263; Act of Jan. 8, 1857, 1856 N.C. Sess. Laws 22; Act of April 1, 1853, ch 161, 1852 Va. Acts 133.

114. Act of Aug. 26, 1721, ch. 3, 1721 Pa. Laws 106, 1721 PA. STAT. ch. CCXLVI.

115. Act of Dec. 5, 1768, ch. 13, 1768 N.C. Sess. Laws 168.

116. *Id.* § 2, at 168–69.

117. Act of Mar. 30, 1882, 1882 Md. Laws 257; Act of Aug. 26, 1721, ch. 3, 1721 Pa. Laws 106, 1721 PA. STAT. ch. CCXLVI *reprinted in* III Mitchell & Flanders, *supra* note 103 at 254.

118. 14 Del. Laws 401; Act of Nov. 14, 1828, 1828 Fla. Laws 48, 75; Act of Sept. 21, 1882, 1880 Ga. Laws 142, 142; Act of Jan. 8, 1856, 1856 N.C. Sess. Laws 22, 22; Act of Apr. 20, 1874, 1874 Ohio Laws

licensing, and bar fishing “with any kind of gun.”¹¹⁹ In the twentieth century, in addition to the types of laws already mentioned, states barred hunting with silencers, from aircraft, by under-age persons, or with certain kinds of weapons—still including swivel guns, but now including automatic weapons.¹²⁰

J. Gun Manufacture, Inspection, Sale Restrictions

Gun laws also dealt broadly with manufacturing, inspection, and sale of weapons. Many of the laws in this category pertained to the manufacture, sale, transport, and storage of gunpowder. Gunpowder matters were of great concern because early firearms operated with the addition of loose gunpowder to serve as the igniting or explosive force to propel a projectile, so the two were inextricably linked.¹²¹ But beyond the safety concerns about explosions or fires resulting from the mishandling of gunpowder, safety issues also led to other early regulations. In 1814, for example, Massachusetts required that all musket and pistol barrels manufactured in the state be first tested or “proved” to insure that they could withstand the firing process without rupturing.¹²² Moreover, the law provided for a “person appointed according to the provisions of this act”—in other words, a state inspector—to oversee or conduct the testing.¹²³ This continued a long tradition in Massachusetts of giving local officials the power to survey, inspect, and even confiscate arms as needed. As early as 1642, “surveyors of arms” were empowered in colonial law to demand the delivery of gun powder and firearms from individuals in order for these items to be used in “times of danger.”¹²⁴ New Hampshire created and appointed state gunpowder inspectors to examine every storage and manufacturing site.¹²⁵ Twentieth century laws extended safety regulations pertaining to gunpowder and other explosives; one state, South Carolina, prohibited the use of explosives to kill fish (hardly a sporting enterprise).¹²⁶

147, 148; 1721 Pa. Laws 106, 1721 PA. STAT. ch. CCXLVI reprinted in III Mitchell & Flanders, *supra* note 103 at 254; Virginia Act of Mar. 2, 1642, Act. XI, reprinted in I THE STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE 248, 248 (William Waller Henning, ed., 1823).

119. Act of Dec. 23, 1878, no. 602, 1878 S.C. Acts 724, 724.

120. Act of Apr. 4, 1931, ch. 97, 1931 Colo. Sess. Laws 399, 399–400; Act of Mar. 29, 1927, 1927 Del. Laws 516, 516; Act of Apr. 27, 1911, ch. 165, 1911 Del. Laws 322, 324; Act of May 10, 1901, 1901 Ill. Laws 212, 213; Act of Mar. 5, 1883, ch. CV, 1883 Kan. Sess. Laws 159, 159; Act of May 24, 1923, no. 228, § 704, 1923 Pa. Laws 359, 386.

121. Act of May 29, 1771, 1771 Mass. Acts 597; Act of Nov. 23, 1715, no. 234, 1715 Mass. Acts 311; Act of Feb. 28, 1786, 1786 N.H. Laws 383.

122. Act of Feb. 28, 1814, ch. CXCII, 1814 Mass. Acts 464, 464–65

123. *Id.*

124. RECORDS OF THE GOVERNOR, *supra* note 105, at 26. See also RECORDS OF THE GOVERNOR, *supra* note 105, at 31, 73–74, 84 for similar references. This law was not among those appearing in Frassetto’s list. See Frassetto, *supra* note 17.

125. Act of June 21, 1820, ch. XXV, 1820 N.H. Laws 274, 274–76.

126. Act of Feb. 16, 1903, no. 82, 1903 S.C. Acts 124, 124–25.

K. Firearms Sales

At least eight states regulated, barred, or licensed firearms sales. For example, Florida (1927),¹²⁷ Georgia (1902),¹²⁸ and North Carolina (1905)¹²⁹ gave localities the power to license, regulate, or even bar the commercial sale of firearms. In a 1917 law, New Hampshire required the licensing of gun dealers, requiring them to record the name, address, date of sale, amount paid, and date of the purchaser's permit for all who made gun purchases.¹³⁰ In turn, this information was passed to the local city or town clerk or county office, and "[t]he records thus filed shall at all times be open to the inspection of the police departments, or other public authorities."¹³¹ New Jersey prohibited pawn brokers from selling or in any manner transferring any firearms.¹³² New York established a registration system for all handgun sales—part of the 1911 law known as the Sullivan Law—which required gun owners to obtain a permit for ownership.¹³³ In a 1925 law, West Virginia barred the "public display" of any firearms for sale or rent, or ammunition. Gun dealers were also to be licensed, and were required to record the name, address, age "and general appearance of the purchaser," as well as all identifying information about the gun, which was then to be immediately reported to the superintendent of the local department of public safety.¹³⁴

L. Militia Laws

The militia laws that appear on this list represent one category of early gun laws that have been carefully studied elsewhere.¹³⁵ Not surprisingly, the laws here replicate what is now well known about the early-American militia system. Early laws confirmed the power of state governments to impress or take the firearms of citizens if needed. Militia-eligible men were typically required to obtain and maintain in working order the necessary combat-worthy firearm, at their own expense, along with the necessary accoutrements of powder, shot, and the like.¹³⁶ In Virginia in the early 1600s, men were required to bring their firearms to church for fear of Indian attacks.¹³⁷ In some states, laws stipulated when, where, and under what circumstances guns were to be loaded or unloaded.¹³⁸ In Maryland,

127. Act of June 6, 1927, ch. 12548, § 19(13), 1927 Fla. Laws 206, 212.

128. Act of Dec. 18, 1902, part III, tit. I, no. 192, § 16, 1902 Ga. Laws 427, 434–35.

129. Act of Mar. 6, 1905, ch. 188, § 6, 1905 N.C. Sess. Laws 545, 547.

130. Act of Apr. 19, 1917, ch. 185, 1917 N.H. Laws 727, 727–30.

131. *Id.* § 3, at 728.

132. Act of Mar. 30, 1927, ch. 321, § 1, 1927 N.J. Laws 742, 742.

133. Act of May 25, 1911, ch. 195, § 2, 1911 N.Y. Laws 442, 444–45.

134. Act of June 5, 1925, ch. 3, § 7(b), 1925 W. Va. Acts 24, 32 (Extraordinary Sess.).

135. CORNELL, *supra* note 8; JOHN K. MAHON, *THE AMERICAN MILITIA: DECADE OF DECISION 1789–1800* (1960); JOHN K. MAHON, *HISTORY OF THE MILITIA AND THE NATIONAL GUARD* (1983); H. RICHARD UVILLER & WILLIAM G. MERKEL, *THE MILITIA AND THE RIGHT TO ARMS: HOW THE SECOND AMENDMENT FELL SILENT* (2002).

136. The Uniform Militia Act of 1792, 1 U.S. Stat. 271.

137. Virginia Act of Feb. 24, 1631, Act LI, *reprinted in* I Henning, *supra* note 103, at 174.

138. Act of Mar. 16, 1877, 1877 Mo. Laws 298, 306; Act of Mar. 21, 1835, ch. 423, art. XI, 1835 Mo. Laws 512, 537; Act to Regulate the Militia, 1844 R.I. Pub. Laws 1, 16.

privates or non-commissioned officers who used their muskets for hunting were fined, according to a 1799 law.¹³⁹ These laws disappeared with the end of the old militia system in the mid-1800s.

M. Gun Access By Minors And Irresponsible Others

Numerous laws restricting gun access by minors—minimum ownership ages ranged from twelve to twenty-one—or others deemed irresponsible arose in the late 1800s, becoming more common in the early 1900s. Some states added other barred categories, including convicts or those of poor moral character, those inebriated, and people of unsound mind.¹⁴⁰ In 1907, the then-territory of Arizona barred

any constable or other peace officer . . . while under the influence of intoxicating liquor of any kind, to carry or have on his person a pistol, gun, or other firearm, or while so intoxicated to strike any person, or to strike any person with a pistol, gun or other firearm . . .¹⁴¹

N. Arms And Ammunition Trafficking

Arms and ammunition trafficking was also a concern as early as the seventeenth century, just as it is today. Various registration or taxation schemes sought to address this concern. For example, a 1652 New York law outlawed illegal trading of guns, gun powder, and lead by private individuals.¹⁴² A 1631 Virginia law required the recording not only of all new arrivals to the colony, but also “of arms and munitions.”¹⁴³ Twenty years later, Virginia required that “all ammunition, powder and arms, other than for private use shall be delivered up” to the government.¹⁴⁴ In the 1800s, three southern states imposed taxes on personally held firearms. Georgia in 1866 levied a tax of “one dollar a piece on every gun or pistol, musket or rifle over the number of three kept or owned on any plantation . . .”¹⁴⁵ In 1867, Mississippi levied a tax of between \$5 and \$15

upon every gun and pistol which may be in the possession of any person . . . which tax shall be payable at any time on demand, by the Sheriff, and if not so paid, it shall be the duty of the Sheriff to forthwith distrain [to seize property for money owed] and seize such gun or pistol, and sell the same for cash . . .¹⁴⁶

139. A Supplement to the Act, Entitled, An Act to Regulate and Discipline the Militia of this State, ch. 100, § 30, 1798 Md. Laws 69, 75.

140. Act of Mar. 5, 1907, ch. 16, 1907 Ariz. Sess. Laws 15; Act of Feb. 4, 1881, ch. 3285, 1881 Fla. Laws 87; Cook County Ordinance chap. 53 of Chicago (Ill.) Code of 1911.

141. Act of Mar. 5, 1907, ch. 16, § 1, 1907 Ariz. Sess. Laws 15, 15–16.

142. Ordinance of the Director and Council of New Netherland Against Illegal Trade in Powder, Lead and Gunds in New Netherland by Private Persons, 1652 N.Y. Laws 128.

143. Virginia Act of Feb. 27, 1631, Act LVI, *reprinted in* I Henning, *supra* note 103, at 174–75.

144. Articles at the Surrender of the Countrie of Virginia, Mar. 22, 1651, *reprinted in* I Henning, *supra*, note 103 at 365.

145. Act of Dec. 7, 1866, no. 41, § 1, 1866 Ga. Laws 27, 27–28.

146. Act of Feb. 7, 1867, ch. CCXLIX, § 1, 1867 Miss. Laws 327, 327.

In 1856 and 1858, North Carolina enacted taxes on pistols and other weapons “used or worn about the person.”¹⁴⁷ An 1851 Rhode Island law taxed anyone who owned or kept a pistol or rifle shooting gallery in certain locations;¹⁴⁸ Louisiana and Mississippi did the same in 1870¹⁴⁹ and 1886, respectively.¹⁵⁰ Alabama imposed a tax on firearms dealers in 1898.¹⁵¹ That same year, Florida required a license for anyone owning “a Winchester or repeating rifle,” and further required the licensee to “give a bond running to the Governor of the State in the sum of one hundred dollars, conditioned on the proper and legitimate use of the gun with sureties to be approved by the county commissioners.”¹⁵² Hawaii licensed firearms for sporting purposes in 1870,¹⁵³ as did Wyoming in 1899,¹⁵⁴ and Georgia imposed a pistol dealers’ tax in 1894.¹⁵⁵ Nebraska granted to city mayors the power to issue licenses to carry concealed weapons, adding mayoral discretion to “revoke any and all such licenses at his pleasure.”¹⁵⁶

O. Registration And Taxation

Registration and taxation laws were enacted with greater frequency beginning in the twentieth century. At least twelve states imposed various gun sales or dealer registration, regulation, taxation, or gun registration schemes.¹⁵⁷ The earliest applicable to purchasers of all firearms, was enacted in Michigan in 1913;¹⁵⁸ New York’s 1911 Sullivan law applied to handguns only.¹⁵⁹ Michigan also mandated in 1927 that all pistols be presented by their owners “for safety inspection” to local officials, if they lived in an incorporated city or village.¹⁶⁰ Perhaps most remarkable was this sweeping law, enacted by Montana in 1918, titled “An Act providing for the registration of all fire arms and weapons and regulating the sale thereof”:

147. Act of Feb. 16, 1859, ch. 25, sched. A, § 27(15), 1858 N.C. Sess. Laws 28, 35–36; Act of Feb. 2, 1857, ch. 34, § 23(4), 1856 N.C. Sess. Laws 28, 34.

148. Act of Jan. 20, 1851, § 2, 1851 R.I. Pub. Laws 9, 9.

149. Act of Mar. 16, 1870, no. 68, § 3, sixth, 1870 La. Acts 126, 127.

150. Act of Mar. 18, 1886, ch. II, § 1, 1886 Miss. Laws 12, 19.

151. Act of Feb. 23, 1899, no. 903, § 16, sixty-seventh, 1898 Ala. Acts 164, 190.

152. Act of June 2, 1893, ch. 4147, 1898 Fla. Laws 71, 71–72.

153. Act of July 18, 1870, ch. XX, 1870 Haw. Sess. Laws 26, 26.

154. Act of Feb. 15, 1899, ch. 19, § 14, 1899 Wyo. Sess. Laws 27, 32–33.

155. 1893–1894 Treasurer’s Report, 1894 Ga. Laws 325, 326.

156. LINCOLN REV. ORD. ch. XIV, art. XVI, § 6 (Neb. 1895).

157. Act of June 19, 1931, ch. 1098, § 1, § 9, 1931 Cal. Stat. 2316, 2316–19; Act of June 2, 1923, ch. 252, 1923 Conn. Pub. Acts 3707; Act of Apr. 7, 1909, ch. 271, 25 Del. Laws 577; Ga. General Tax Act, no. 260, § 2, ninety-third, 1921 Ga. Laws 38, 65; Act of Jan. 9, 1934, act 26, 1933 Haw. Sess. Laws 35 (Spec. Sess.); Act of July 2, 1931, 1931 Ill. Laws 452; Act of May 7, 1913, ch. 250, 1913 Mich. Pub. Acts 472; MISS. CODE ch. 114, § 3887 (1906) (published in 1906 Miss. Laws 346, 367 (Spec. Sess.)); Act of Feb. 20, 1918, ch. 2, 1918 Mont. Laws 6 (Extraordinary Sess.); Act of Mar. 10, 1919, ch. 197, 1919 N.C. Sess. Laws 397; Act of Mar. 26, 1923, no. 11, § 11, 1923 S.C. Acts 12, 19–20; Act of Feb. 18, 1933, ch. 101, 1933 Wyo. Sess. Laws 117.

158. Act of May 7, 1913, No. 250, 1913 Mich. Pub. Acts 472.

159. Act of May 25, 1911, ch. 195, § 2, 1911 N.Y. Laws 442.

160. Act of June 2, 1927, no. 372, § 9, 1927 Mich. Pub. Acts 887, 891.

Within thirty days from the passage and approval of this Act, every person within the State of Montana, who owns or has in his possession any fire arms or weapons, shall make a full, true, and complete verified report upon the form hereinafter provided to the sheriff of the County in which such person lives, of all fire arms and weapons which are owned or possessed by him or her or are in his or her control, and on sale or transfer into the possession of any other person such person shall immediately forward to the sheriff of the County in which such person lives the name and address of that purchaser and person into whose possession or control such fire arm or weapon was delivered.

... For the purpose of this Act a fire arm or weapon shall be deemed to be any revolver, pistol, shot gun, rifle, dirk, dagger, or sword.¹⁶¹

The remarkable sweep of this statewide gun registration scheme is exceeded only by its early provenance.

P. Right To Bear Arms

In all of the nearly one thousand statutes examined in this analysis, only one referred to the right to bear arms—and it managed to misquote the Second Amendment; it is “the right *of* the people” not “the right *to* the people.” In 1868, Oregon enacted “An Act To Protect The Owners Of Firearms”:

Whereas, the constitution of the United States, in article second of amendments to the constitution, declares that “the right to the people to keep and bear arms shall not be infringed;” and the constitution for the state of Oregon, in article first, section twenty-seven, declares that “the people shall have the right to bear arms for the defense of themselves and the state;” therefore, . . .

Section 1. Every white male citizen of this state above the age of sixteen years, shall be entitled to have, hold, and keep, for his own use and defense, the following firearms, to wit: Either or any one of the following named guns and one revolving pistol: a rifle, shot-gun (double or single barrel), yager [a heavy, muzzle-loading hunting rifle], or musket . . .

Section 2. No officer, civil or military, or other person, shall take from or demand of the owner any fire-arms mentioned in this act, except where the services of the owner are also required to keep the peace or defend the state.¹⁶²

Even in this articulation of a specified right to guns, the law extends that right to “any one of the following,”¹⁶³ limiting citizens’ gun rights both as to numbers of guns to be owned, and to the specified types. Here, indeed, is a “well-regulated right.”¹⁶⁴

Q. Race And Slavery

The history of firearms regulations pertaining to race and slavery is surprising only in the relatively small number of written state restrictions. Yet that is not to suggest that the antebellum slavery regime was somehow less than uniformly oppressive. Two competing values shaped the relationship between slavery and guns. First, many sought to maintain some discretion regarding the arming of slaves. Early in the country’s history, slave owners found it not only useful, but

161. Ch. 2, 1918 Mont. Laws 6–9.

162. Act of Oct. 24, 1868, 1868 Or. Laws 18, 18–19.

163. *Id.* at 18.

164. Cornell & DeDino, *supra* note 109.

necessary, to arm slaves in early conflicts with Native Americans. For example, during the bloody Yamasee War (1715–1717) in South Carolina, nearly half of the colonist militia forces deployed were slaves.¹⁶⁵ Later on, the practice of enrolling slaves or indentured servants in local militias was largely abandoned, especially as such forces were used to monitor the slave population.¹⁶⁶ In addition, individual slave owners also often wished to arm their slaves when hunting or traveling.¹⁶⁷ The second, opposing value was the overriding fear of slave rebellions. With so much of the population of the South composed of people in bondage, whites lived in constant fear of violent uprisings.¹⁶⁸ Part of the pathology of control extended to deterring and catching runaway slaves.¹⁶⁹ Finally, gun prohibitions often extended to free blacks as well, although some laws distinguished between those in bondage versus those who were free. For example, Virginia enacted a law in 1806 that permitted “every negro or mulatto” to own guns, as long as they were not slaves.¹⁷⁰ Most of the laws listed here either penalize slaves for gun hunting or gun carrying without their owners’ authorization or presence. Others barred slave gun carrying entirely, or barred guns to free blacks or those of mixed race.

R. Time And Place Restrictions

Probably the most common type of gun law in America today is that which restricts the use of firearms in sensitive areas and times. One would be hard-pressed to find a city, town, or village in the contemporary United States that does not have a law against the discharge of firearms within its jurisdiction. Indeed, such laws existed early in our history, some of which fell into previous categories. Early such laws barred firearms carrying and discharges in named or generic public places, communal gatherings, schools, entertainments, on Sundays, or election day, as well as laws enacted in the late 1700s and 1800s to bar firearms discharges in cemeteries (clearly a source of significant mischief), on or at trains or other public conveyances, near roads, churches, bridges, homes or other buildings, or state parks.¹⁷¹

165. JERRY COOPER, *THE RISE OF THE NATIONAL GUARD* 3 (1997); John Shy, *A New Look at the Colonial Militia*, 20 WM. & MARY Q. 175, 175–85 (1963) *reprinted in* A PEOPLE NUMEROUS AND ARMED: REFLECTIONS ON THE MILITARY STRUGGLE FOR AMERICAN INDEPENDENCE 31–38 (rev. ed. 1990).

166. Paul Finkelman, *The Living Constitution and the Second Amendment*, 37 CARDOZO L. REV. 623, 644 (2015).

167. 1 Del. Laws 104; 9 Del. Laws 552 (1843); Act of Oct. 1, 1804, 1804 Ind. Acts 107, 108; Act of Feb. 8, 1798, ch. LIV, 1798 Ky. Acts 105, 106; Act of Nov. 27, 1729, 1715–1755 N.C. Sess. Laws 35, 36.

168. Finkelman, *supra* note 166, at 644–45.

169. For more on early laws and practices regarding free blacks, slaves, and guns, see CORNELL, *supra* note 8, at 28–29; KENNETT & ANDERSON, *supra* note 9, at 49–51; WINKLER, *supra* note 8, at 115–16.

170. WINKLER, *supra* note 8, at 116.

171. Act of Sept. 30, 1867, 1867 Ariz. Sess. Laws 21, 21–22; Act of Oct. 1672, 1672–1714 Conn. Pub. Acts; 3 Del. Laws 326; 10 Del. Laws 9; Act of May 24, 1895, no. 436, 1895 Mich. Local Acts 591, 596; Act of Oct. 14, 1713, 1713 Mass. Acts 291; Act of June 28, 1823, ch. XXXIV, 1823 N.H. Laws 72, 73 Act of Dec. 31, 1665, 1665 N.Y. Laws 205; Act of Feb. 9, 1750, ch. CCCLXXXVIII, 1745–1759 Pa. Laws 208; Act

S. Crime And Guns

The idea that those who commit crimes with guns should suffer a greater punishment is an old idea, but not one widely found during the period under study here. In 1783, Connecticut enacted a law that called for the death penalty for those who committed a burglary or robbery with a gun because it was seen to “clearly indicate their violent intentions.”¹⁷² By comparison, commission of the same crimes without a gun resulted in a whipping and jail time.¹⁷³ A 1788 Ohio (Northwest Territory) law increased the penalty and jail time for anyone convicted of breaking and entering with a dangerous weapon, including firearms.¹⁷⁴ Several states provided for enhanced sentences for crimes committed with firearms in the 1800s.¹⁷⁵ In the 1900s, extended sentences were meted out to those who used explosives or guns while committing crimes—sometimes machine guns or pistols were stipulated.¹⁷⁶

T. Storage Regulations

The final category of gun regulation pertains to storage regulations. Many early laws imposed storage restrictions on gunpowder, but similar rules sometimes extended to firearms as well. For example, Massachusetts enacted a 1782 law specifying that any loaded firearms “found in any Dwelling House, Out House, Stable, Barn, Store, Ware House, Shop, or other Building . . . shall be liable to be seized” by the “Firewards” of the town. If the storage was found to be improper by a court, the firearms were to “be adjudged forfeit, and be sold at public Auction.”¹⁷⁷ Armories and gun houses were subject to regular inspection by the terms of an 1859 Connecticut law.¹⁷⁸ In 1919, Massachusetts passed a law to authorize the issuance of warrants for any complaint alleging that someone was keeping “an unreasonable number of rifles, shot guns, pistols, revolvers or other dangerous weapons, or that an unnecessary quantity of ammunition, is kept

of Dec. 24, 1774, ch. DCCCIII, 1759-1776 Pa. Laws 421; Act of Feb. 28, 1740, no. 692, 1731-43 S.C. Acts 162[i], 174; Act of Mar. 13, 1871, ch. VI, 1871 Tex. Spec. Laws 11, 14; Act of Aug. 12, 1870, ch. XLVI, 1870 Tex. Gen. Laws 63; Virginia Act of Mar. 10, 1655, Act XII, *reprinted in* I THE STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE 401, 401-02 (William Waller Henning ed., 1823); Virginia Act of Mar. 2, 1642, Act. XI, *reprinted in* I THE STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE 248, 248 (William Waller Henning, ed., 1823); A COLLECTION OF ALL SUCH ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA, OF A PUBLIC AND PERMANENT NATURE, AS ARE NOW IN FORCE 33 (Augustine Davis ed., 1794).

172. Act of Oct. 9, 1783, 1783 Conn. Pub. Acts 633, 633.

173. *Id.*

174. Act of Sept. 6, 1788, ch. 2, 1788 Ohio Laws 6, 8.

175. Act of Oct. 9, 1783, 1783 Conn. Acts 633; Florida Act of Aug. 6, 1888, chap. 1637; Act of Sept. 6, 1788, ch. II, 1788-1801 Ohio Laws 8; Act of Dec. 2, 1869, 1869 Wash. Sess. Laws 198, 203.

176. Act of Apr. 3, 1907, ch. 151, 1907 Colo. Sess. Laws 334; Act of June 22, 1911, ch. 98, 1911 Conn. Pub. Acts 1357; Act of May 15, 1905, ch. 5411, 1905 Fla. Laws 87; Act of July 2, 1931, 1931 Ill. Laws 452; Act of Mar. 8, 1929, ch. 55, 1929 Ind. Acts 139.

177. 1782 Mass. Acts 119, ch. 46, § 1.

178. Act of June 24, 1859, ch. LXXXII, § 7, 1859 Conn. Pub. Acts 61, 62.

or concealed for any unlawful purpose in a particular house or place”¹⁷⁹ If a court concluded that the possession was not justified, it could order the weapons and ammunition forfeited.¹⁸⁰

V

CONCLUSION: FIREARMS LAWS ARE AS AMERICAN AS GUN OWNERSHIP

Early gun laws were comprehensive, ubiquitous, and extensive. Taken together, they covered every conceivable dimension of gun acquisition, sale, possession, transport, and use, including deprivation of use through outright confiscation—not merely for the commission of serious crimes, but even for violation of hunting regulations. Given that the dark fear of contemporary gun rights enthusiasts is government confiscation of firearms, it bears noting that this survey of early gun laws included measures that invoked gun confiscation for a wide range of reasons or offenses including: military necessity; failure to swear a loyalty oath to the government; improper storage of firearms; improper possession of weapons legal to own under certain circumstances, including, but not limited to, possession of specific, named types of prohibited firearms—especially handguns and machine guns; violations of certain hunting laws; and failure to pay a gun tax.

Another category of gun regulation, remarkable in its own right, is the prohibition of semi-automatic weapons in up to ten states, summarized in Table 2. This important statutory prohibition, unknown until now, also has contemporary reverberations as precedent for the assault weapons ban debates in the 1990s and 2000s.¹⁸¹

In all of this lawmaking, there is, with the rarest exceptions, no suggestion that these laws infringed on anything related to any “right to bear arms”—remembering that the Second Amendment did not apply to the states until the Supreme Court so extended it in 2010¹⁸²—be it the U.S. Constitution’s Second Amendment or the various state constitutions’ right-to-bear-arms-type provisions. Many state laws predated the modern state and federal constitutions, but there is no indication that subsequent state laws were somehow inhibited or stymied after the adoption of right to bear arms provisions, aside from facing occasional court challenges.¹⁸³ Many of these laws did, however, include two types of exemptions: those related to militia or military activities; and instances when individuals used firearms for justifiable personal self-defense. As Saul Cornell has noted, “the common-law right of individual self-defense”¹⁸⁴ was not only well

179. Act of May 22, 1919, ch. 179, § 1, 1919 Mass. Acts 139, 139.

180. *Id.*

181. See SPITZER, *supra* note 26, at ch. 3 (analyzing the contemporary dispute over regulating semi-automatic assault weapons).

182. McDonald v. City of Chicago, 561 U.S. 742 (2010).

183. SPITZER, *supra* note 55, at 91, 91–136.

184. CORNELL, *supra* note 8, at 21.

established long before codification of the right to bear arms in American constitutions; it existed independent of that right.¹⁸⁵

Taken together, these sixteen—sometimes overlapping—categories of gun laws span a wide range. Some encompass anachronistic practices—like slavery, dueling, and old-style militias—that nevertheless reflect the scope of government power over the kinds of persons who could carry guns, the circumstances of gun carrying, criminal gun behavior, and military or defense exigencies. Others reflect the most basic efforts to improve safety, including laws that criminalized menacing behavior with guns (such as brandishing), the firing of weapons in populated areas, hunting laws, some of the laws related to manufacturing and inspection pertaining to firearms, laws restricting firearms access to minors, criminals, and those mentally incompetent, laws restricting firearms in sensitive areas or places, sentence enhancement laws, and storage laws.

Finally, some of the gun law categories represented more sophisticated, ambitious, or seemingly modern approaches to gun regulation. Dangerous weapons barred outright by laws enacted in the 1920s and early 1930s included automatic weapons like submachine guns. Congress moved to restrict access to such weapons nationwide in 1934.¹⁸⁶ Yet state laws also barred silencers, air guns, trap guns, and even semi-automatic weapons and the early equivalent of large capacity bullet magazines. While standards varied, some states barred weapons or mechanisms that could fire more than five, seven, eight, sixteen, or eighteen bullets without reloading. The concerns then were akin to those that motivated Congress to enact the Assault Weapons ban of 1994¹⁸⁷: excessive firepower in the hands of civilians, and the related question of public safety. Beyond these laws are those that are essentially off the agenda in the contemporary political environment: registration and licensing laws, and significant, categorical gun bans.

Taking most of these gun law categories together, one overarching concern straddles them: the conviction that handguns represented a uniquely dangerous threat to societal interpersonal safety. Even though these laws were enacted long before the government or private researchers began to collect systematic data on gun violence, the carrying of pistols was seen as an activity largely confined to those who contemplated or committed crimes or other forms of interpersonal violence, and that therefore pistol carrying should be subject to stricter rules and standards, including in many instances prohibition. While gun control proponents continue to make the same arguments in modern America, those arguments carried more weight in the America of the 1600s through the early 1900s than they do today. The relationship between citizens and their governments with

185. Cornell, *supra* note 56, at 1703, 1707; *see also* SPITZER, *supra* note 26, at ch. 4; Nathan Kozuskanich, *Originalism in a Digital Age*, in *THE SECOND AMENDMENT ON TRIAL*, *supra* note 8, at 289–309.

186. National Firearms Act of 1934, Pub. L. No. 73-474, 48 Stat. 1236 (codified as amended at I.R.C. §§ 5801–5872 (2012)).

187. SPITZER, *supra* note 55, at 149–55.

respect to guns contemplates a regulatory regime that bears little resemblance to the modern gun rights narrative of the past. Yes, there was lawlessness, rebellion, and rugged individualism. But the context was that of a governing framework where the state confined and defined lawful use of force by individuals.

Gun laws are as old as the country; more to the point, the *idea* of gun laws and regulation is as old as the country. The prevailing gun law movement in America in the last three decades toward the relaxing of gun restrictions—for example, the reduction of gun sale inspections, the shielding of manufacturers and dealers from criminal and civil liability, the rise of unregulated internet gun and ammunition sales—as well as the spread of concealed carry laws, the open carry movement, and most recently of “stand your ground” laws are not a return to the past. They are a refutation of America’s past, and a determined march away from America’s gun regulation tradition. And these changes have nothing to do with improving safety or security in society, but everything to do with politics.

EXHIBIT 19
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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 STEVEN RUPP, *et al.*,

14 Plaintiffs,

15 v.

16 XAVIER BECERRA, in his official
capacity as Attorney General of the
17 State of California,

18 Defendant.
19

CASE NO.: 8:17-cv-00746-JLS-JDE

BRIEF OF *AMICUS CURIAE*
EVERYTOWN FOR GUN SAFETY
IN SUPPORT OF DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

Hearing Date: May 31, 2019
Hearing Time: 10:30 a.m.
Courtroom: 10A
Judge: Hon. Josephine L. Staton

CORPORATE DISCLOSURE STATEMENT

Everytown for Gun Safety has no parent corporations. It has no stock and hence no publicly held company owns 10% or more of its stock.

TABLE OF CONTENTS

	<u>Page</u>
CORPORATE DISCLOSURE STATEMENT	1
TABLE OF AUTHORITIES	ii
INTEREST OF <i>AMICUS CURIAE</i>	1
INTRODUCTION	1
ARGUMENT	3
I. California’s Prohibition of Assault Weapons Is Part of a Longstanding History of Analogous Prohibitions.	3
A. The AWCA Is Consistent with Centuries of Laws Prohibiting Weapons Deemed To Be Especially Dangerous Dating from the Colonial Period to the Present Day.	5
B. States Have Prohibited Semi-Automatic Firearms Capable of Quickly Firing Multiple Rounds Since the Early Twentieth Century.	7
II. The “Common Use” Test Proposed by Plaintiffs Is Illogical and Should Not Be Followed.....	9
A. Plaintiffs’ “Common Use” Test Is Logically Circular and an Unreasonable Constraint on Federalism Principles.....	10
B. The “Common Use” Test Should Instead Be Used To Evaluate Whether the Weapon Is Necessary for the Core Second Amendment Right of Home Defense.....	14
III. The Use of Assault Weapons Makes Mass Shootings and Other Gun-Violence Incidents Deadlier and It Is in California’s Interest To Regulate These Weapons To Protect the Public.	15
CONCLUSION.....	21

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1		
2		
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INTEREST OF AMICUS CURIAE

Everytown for Gun Safety (“Everytown”) is the nation’s largest gun violence prevention organization, with over five million supporters across all fifty states, including tens of thousands in California. It was founded in 2014 as the combined effort of Mayors Against Illegal Guns, a national, bipartisan coalition of mayors combating illegal guns and gun trafficking, and Moms Demand Action for Gun Sense in America, an organization formed after twenty children and six adults were murdered by a gunman with an AR-15 rifle—the type of weapon regulated by the law challenged here—in an elementary school in Newtown, Connecticut. The mayors of more than fifty California cities are members of Mayors Against Illegal Guns. Everytown also includes a large network of gun-violence survivors who are empowered to share their stories and advocate for responsible gun laws.

Everytown has drawn on its expertise to file briefs in numerous Second Amendment cases, including challenges to assault weapon prohibitions like those at issue in this case, offering historical and doctrinal analysis that might otherwise be overlooked. *See, e.g., Wilson v. Cook County*, No. 18-2686 (7th Cir.); *Worman v. Healey*, No. 18-1545 (1st Cir.); *Kolbe v. Hogan*, No. 14-1945 (4th Cir.) (en banc); *Duncan v. Becerra*, No. 17-56081 (9th Cir.); *Peruta v. Cty. of San Diego*, No. 10-56971 (9th Cir.) (en banc). It seeks to do the same here.¹

INTRODUCTION

This case involves a Second Amendment challenge to California’s Assault Weapons Control Act (“AWCA”), which prohibits, among other things, the manufacture, possession, transport, sale, offer for sale, and import of assault

¹ An appendix of historical gun laws accompanies this brief. All parties consent to the filing of this brief, and no counsel for any party authored in whole or part. Apart from *amicus curiae*, no person contributed money intended to fund the brief’s preparation and submission.

1 weapons.² Four circuits have heard challenges to similar laws, and all four upheld
 2 the laws as constitutional under the Supreme Court’s decision in *District of*
 3 *Columbia v. Heller*, 554 U.S. 570 (2008). *See Kolbe v. Hogan*, 849 F.3d 114, 137-
 4 38 (4th Cir. 2017) (en banc), *cert. denied*, 138 S. Ct. 469 (2017); *N.Y. State Rifle &*
 5 *Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242, 247 (2d Cir. 2015) (“NYSRPA”), *cert.*
 6 *denied*, 136 S. Ct. 2486 (2016); *Friedman v. City of Highland Park*, 784 F.3d 406,
 7 412 (7th Cir. 2015), *cert. denied*, 136 S. Ct. 447 (2015); *Heller v. District of*
 8 *Columbia* (“*Heller II*”), 670 F.3d 1244, 1264 (D.C. Cir. 2011).³ Since *Heller*, three
 9 separate districts of the California Court of Appeal have upheld the law at issue in
 10 this case, holding that the AWCA “does not prohibit conduct protected by the
 11 Second Amendment.” *People v. James*, 174 Cal. App. 4th 662, 677 (2009) (3d
 12 Dist.); *see People v. Zondorak*, 220 Cal. App. 4th 829, 835-38 (2013) (4th Dist.);
 13 *People v. Gleason*, No. H042771, 2017 WL 6276235, at *5 (Cal. Ct. App. Dec. 11,
 14 2017) (unpublished) (6th Dist.), *cert. denied*, 139 S. Ct. 116 (2018).

15 As the State of California’s brief shows, these courts got it right. Everytown
 16 submits this *amicus curiae* brief to urge this Court to similarly uphold the AWCA
 17 here—and, in particular, to make three points:

18 *First*, the AWCA is part of a long tradition of regulating weapons that
 19 legislatures have determined to be unacceptably dangerous, including a century of
 20 restrictions on semi-automatic firearms capable of firing a large number of rounds
 21

22
 23 ² In particular, this case challenges the AWCA’s restrictions on rifles classified as
 24 assault weapons. As Plaintiffs concede, the law’s regulation of pistols and shotguns
 is “not relevant here.” Pls.’ Mot. Summ. J. (“Pls.’ MSJ”), at 3 n.6, ECF No. 77-1.

25 ³ Although the Ninth Circuit has not addressed the constitutionality of assault
 26 weapons laws under the Second Amendment since *Heller*, it recently cited these four
 27 circuit decisions favorably in ruling that a different state law, which prohibits permit
 28 holders from possessing firearms on school grounds but allows retired peace officers
 to do so, did not violate the Equal Protection Clause. *See Gallinger v. Becerra*, 898
 F.3d 1012, 1018-19 (9th Cir. 2018) (citing *Kolbe*, *NYSRPA*, *Friedman*, and *Heller II*).

1 without reloading. This historical tradition alone is sufficient for this Court to find
2 the law constitutional under the Second Amendment.

3 *Second*, this Court should also reject Plaintiffs' argument that the national
4 prevalence of a type of a firearm, like the assault weapons at issue here, necessarily
5 bestows Second Amendment protection on that firearm. Such an approach, under
6 which firearms would become effectively immune from regulation the instant they
7 are deemed in "common use" based on nationwide sales and manufacturing figures,
8 cannot be reconciled with the Supreme Court's decision in *Heller* or with common
9 sense. Indeed, it divorces the Second Amendment from the self-defense right it
10 protects. Further, such a test is inconsistent with core principles of federalism,
11 preventing individual states from determining how to best regulate themselves. Put
12 simply, the "common use" test advocated by Plaintiffs would transform the
13 constitutional analysis into a consumer referendum influenced by the firearms
14 industry's aggressive modern-day marketing and sales strategies. That is not, nor
15 should it be, the law.

16 *Finally*, even if the AWCA is found or assumed to regulate conduct protected
17 by the Second Amendment, the Court should grant the State's motion for summary
18 judgment and dismiss this action because the AWCA survives intermediate scrutiny.
19 In addition to the arguments and evidence advanced in the State's moving papers,
20 Everytown's own research and other relevant social science and statistical evidence
21 bear out California's important interest in preventing and mitigating mass shootings
22 and daily gun violence, and the AWCA's "reasonable fit," *Jackson v. City & County*
23 *of San Francisco*, 746 F.3d 953, 965 (9th Cir. 2014), with that interest.

24 ARGUMENT

25 I. California's Prohibition of Assault Weapons Is Part of a 26 Longstanding History of Analogous Prohibitions.

27 As both the Supreme Court and the Ninth Circuit have emphasized,
28 "longstanding prohibitions" on the possession of certain types of weapons are

1 “traditionally understood to be outside the scope of the Second Amendment.” *Fyock*
 2 *v. City of Sunnyvale*, 779 F.3d 991, 996 (9th Cir. 2015); *see Heller*, 554 U.S. at 626-
 3 27, 635 (noting that such “longstanding prohibitions” are treated as tradition-based
 4 “exceptions” by virtue of their “historical justifications”). These prohibitions need
 5 not “mirror limits that were on the books in 1791.” *United States v. Skoien*, 614 F.3d
 6 638, 641 (7th Cir. 2010) (en banc). Instead, courts have found that even “early
 7 twentieth century regulations might nevertheless demonstrate a history of
 8 longstanding regulation if their historical prevalence and significance is properly
 9 developed in the record.” *Fyock*, 779 F.3d at 997 (citing *Nat’l Rifle Ass’n of Am. v.*
 10 *Bureau of Alcohol, Tobacco, Firearms & Explosives*, 700 F.3d 185, 196 (5th Cir.
 11 2012)).⁴

12 The AWCA is not a radical departure from this country’s well-established
 13 history of firearm regulation. Rather, it is another instance in a long tradition of
 14 regulating or prohibiting weapons that lawmakers have concluded are unacceptably
 15 dangerous—including a century of restrictions enacted shortly after semi-automatic
 16 weapons capable of firing a large number of rounds without reloading became
 17 widely available commercially. *See* Robert J. Spitzer, *Gun Law History in the*
 18 *United States and Second Amendment Rights*, 80 Law & Contemp. Probs. 55, 68-69,
 19 72 (2017) (explaining that “[firearm] laws were enacted not when these weapons
 20 were invented, but when they began to circulate widely in society”). Many of these
 21 laws were passed around the same time as the prohibitions on sales to felons and
 22 individuals with dangerous mental illnesses, and restrictions on commercial arms
 23

24 ⁴ *See also Friedman*, 784 F.3d at 408 (noting that “*Heller* deemed a ban on private
 25 possession of machine guns to be obviously valid” despite the fact that “states didn’t
 26 begin to regulate private use of machine guns until 1927,” and that “regulating
 27 machine guns at the federal level” did not begin until 1934); *Skoien*, 614 F.3d at 639-
 28 40 (noting that “prohibitions on the possession of firearms by felons and the mentally
 ill” have been found to be sufficiently longstanding, despite the fact that “[t]he first
 federal statute disqualifying felons from possessing firearms was not enacted until
 1938” and that “the ban on possession by *all* felons was not enacted until 1961”).

1 sales; all laws that *Heller* identified as “longstanding” and therefore presumptively
 2 valid. *See Heller*, 554 U.S. at 626-27, 635; *see also* Spitzer, *supra*, at 82 (discussing
 3 the passage of prohibitions on possession of firearms by felons and individuals with
 4 mental disabilities in the early twentieth century and the possession of semi-
 5 automatic weapons with large capacity magazines (“LCMs”) in the 1920s and
 6 1930s). Plaintiffs erroneously claim that any such restrictions “are of extremely
 7 recent vintage.” Pls.’ MSJ at 16. But as further described below, there is indeed a
 8 longstanding historical tradition of regulation which, in and of itself, is sufficient for
 9 the Court to find the AWCA constitutional under *Heller*. *See Heller*, 554 U.S. at
 10 626-27; *see also Teixeira v. Cty. of Alameda*, 873 F.3d 670, 673, 682-90 (9th Cir.
 11 2017) (en banc) (applying “[a] textual and historical analysis” to conclude that “the
 12 Second Amendment . . . does not confer a freestanding right . . . to sell firearms”),
 13 *cert. denied*, 138 S. Ct. 1988 (2018).

14 A. **The AWCA Is Consistent with Centuries of Laws Prohibiting**
 15 **Weapons Deemed To Be Especially Dangerous Dating from the**
 16 **Colonial Period to the Present Day.**

17 The AWCA is part of a long history of government weapon prohibitions
 18 aimed at enhancing public safety either because the weapons themselves are
 19 especially dangerous, or because they are particularly suitable for criminal use.⁵ In
 20 this country, such prohibitions date back to the early colonial period when the
 21 American colonies and first states began adopting the English tradition of regulating
 22 especially dangerous firearms. *See generally* 1763-1775 N.J. Laws 346 (prohibiting
 23 set or trap guns); The Laws of Plymouth Colony (1671) (same); Records of the
 24 Colony of New Plymouth in New England 230 (Boston 1861) (same).

25 _____
 26 ⁵ As the California Court of Appeal stated in upholding the AWCA, “the Legislature
 27 was specifically concerned with the unusual and dangerous nature of these
 28 weapons.” *James*, 174 Cal. App. 4th at 676; *see Gallinger*, 898 F.3d at 1018 (noting
 the “particular danger posed by assault weapons,” which “motivated the Legislature
 to enact the AWCA”).

1 The passage of the Bill of Rights did not end this practice. States continued to
 2 prohibit or regulate particularly dangerous weapons. For example, several states
 3 banned or prohibitively taxed Bowie knives,⁶ which were determined to be
 4 “instrument[s] of almost certain death.” *See Cockrum v. State*, 24 Tex. 394, 402
 5 (1859) (finding Bowie knives are “differ[ent] from [guns, pistols, or swords] in
 6 [their] device and design” and are therefore more accurate and lethal than other
 7 contemporary weapons). In addition, a number of states prohibited certain types of
 8 small and easily concealable handguns, which were determined to be ideal for
 9 criminal use.⁷

10 Throughout the early twentieth century, many states passed laws prohibiting
 11 especially dangerous weapons or weapon features, such as silencers, as the
 12 technology of firearms and other dangerous weapons evolved.⁸ And, in the 1920s
 13 and 1930s, at least twenty-eight states and the federal government passed
 14 prohibitions or severe restrictions on automatic weapons, along with the restrictions
 15 on large-capacity semi-automatic weapons discussed next. *See Spitzer, supra*, at 67-
 16 71; Sec. I.B., *infra*.

17
 18 ⁶ *See* 1837 Ala. Sess. Laws 7 § 1 (prohibitively taxing Bowie knives); 1837 Ga.
 19 Laws 90 (banning Bowie knives); 1837-1838 Tenn. Pub. Acts 200 (prohibiting the
 20 sale of Bowie knives); *Aymette v. State*, 21 Tenn. 154, 158 (1840) (justifying a
 prohibition on Bowie knives on the basis that they are “weapons which are usually
 employed in private broils, and which are efficient only in the hands of the robber
 and the assassin”).

21 ⁷ *See* 1879 Tenn. Pub. Acts 136 (“belt or pocket pistols, or revolvers, or any other
 22 kind of pistols, except army or navy pistol”); 1881 Ark. Acts 192 (pocket pistols and
 23 “any kind of cartridge, for any pistol”); 1903 S.C. Acts 127-28 (similar); *See* 1907
 Ala. Sess. Laws 80 (similar).

24 ⁸ *See, e.g.*, 1909 Me. Laws 141 (prohibiting silencers); 1912 Vt. Acts & Resolves
 310 (same); 1913 Minn. Laws 55 (same); 1916 N.Y. Laws 338-39 (same); 1926
 25 Mass. Acts 256 (same); 1927 Mich. Pub. Acts 887-89 (same); 1927 R. I. Pub. Laws
 26 259 (same). States also banned a wide variety of unusually dangerous weapons,
 including blackjacks and billy clubs, slung-shots (a metal or stone weight tied to a
 string), brass knuckles, various kinds of knives, and explosives. *See, e.g.*, 1917 Cal.
 27 Stat. 221 (blackjacks and billy clubs); 1911 N.Y. Laws 442 (slung-shots); 1913 Iowa
 28 Acts 307 (daggers and similar-length knives); 1917 Minn. Laws 354 (brass
 knuckles); 1927 Mich. Pub. Acts 887-89 (explosives).

1 **B. States Have Prohibited Semi-Automatic Firearms Capable of**
2 **Quickly Firing Multiple Rounds Since the Early Twentieth**
3 **Century.**

4 States have regulated semi-automatic firearms capable of quickly firing a large
5 number of rounds—the precursor to modern-day assault weapons—since shortly
6 after these firearms first became widely commercially available at the turn of the
7 twentieth century. *See* Robert Johnson & Geoffrey Ingersoll, *It's Incredible How*
8 *Much Guns Have Advanced Since the Second Amendment*, Business Insider: Military
9 & Defense (Dec. 17, 2012), <http://read.bi/2x12PpU> (explaining that semi-automatic
10 weapons became commercially available in the early 1900s). Such laws often
11 categorized large-capacity, semi-automatic firearms, along with fully automatic
12 weapons, as “machine guns,” and imposed restrictions that effectively prohibited
13 them entirely. *See, e.g.*, 1927 R.I. Pub. Laws 256-59 (prohibiting the “manufacture,
14 s[ale], purchase or possess[ion]” of a “machine gun,” which it defined as “any
15 weapon which shoots more than twelve shots semi-automatically without
16 reloading”); 1927 Mich. Pub. Acts 888 (prohibiting possession of “any machine gun
17 or firearm which can be fired more than sixteen times without reloading”).

18 In 1928, the National Conference of Commissioners on Uniform State Laws
19 (now the Uniform Law Commission) adopted a model law prohibiting possession of
20 “any firearm which shoots more than twelve shots semi-automatically without
21 reloading,” setting the national standard for laws prohibiting possession of semi-
22 automatic firearms with LCMs. *See* Report of Firearms Committee, Handbook of
23 the National Conference on Uniform State Laws and Proceedings of the Thirty-
24 Eighth Annual Meeting 422-23 (1928).⁹ Shortly thereafter, the federal government
25 enacted a similar prohibition for the District of Columbia. *See* Act of July 8, 1932,
26 ch. 465, §§ 1, 14, 47 Stat. 650 (making it a crime to “possess any machine gun,”

27 ⁹ This standard originated with a model law promulgated by the National Crime
28 Commission in 1927. Report of Firearms Committee, at 422-23.

1 which it defined as “any firearm which shoots . . . semiautomatically more than
 2 twelve shots without loading”). Even the National Rifle Association endorsed
 3 passage of the D.C. law, saying, “it is our desire [that] this legislation be enacted for
 4 the District of Columbia, in which case it can then be used as a guide throughout the
 5 states of the Union.” S. Rep. No. 72-575, at 5-6 (1932).

6 California first prohibited automatic weapons in 1927¹⁰ and expanded this
 7 prohibition with a 1933 statute that prohibited the sale or possession of not only “all
 8 firearms . . . capable of discharging automatically,” but also “all firearms which are
 9 automatically fed after each discharge from or by means of clips, discs, drums, belts
 10 or other separable mechanical devices having a capacity of greater than ten
 11 cartridges.” 1933 Cal. Stat. 1170. These statutes were at least as restrictive as the
 12 AWCA, and indeed appear *more* restrictive than the AWCA, as the 1933 law
 13 prohibited *all* firearms equipped with LCMs, rather than only the assault weapons at
 14 issue here (or even the magazines themselves, which are separately regulated under
 15 California law). *See id.* Several other states, including Minnesota, Ohio, and
 16 Virginia, also prohibited or strictly regulated semi-automatic firearms with LCMs.¹¹

17 These regulations have evolved as the firearm marketplace continually
 18 introduces new products and the market embraces certain models or technologies. In
 19 their moving papers, Plaintiffs claim that the AWCA and similar laws “are of an
 20 _____

21 ¹⁰ See 1927 Cal. Stat. 938 (prohibiting “all firearms known as machine rifles,
 22 machine guns or submachine guns capable of discharging automatically and
 23 continuously loaded ammunition of any caliber in which the ammunition is fed to
 such gun from or by means of clips, disks, drums, belts or other separable
 mechanical device”).

24 ¹¹ See 1933 Minn. Laws 232 (prohibiting “[a]ny firearm capable of automatically
 25 reloading after each shot is fired, whether firing singly by separate trigger pressure or
 26 firing continuously” if the weapon was modified to allow for a larger magazine
 capacity); 1933 Ohio Laws 189 (creating prohibitive licensing for “any firearm
 27 which shoots more than eighteen shots semi-automatically without reloading”); 1934
 Va. Acts 137 (effectively prohibiting possession or use of weapons “from which
 28 more than sixteen shots or bullets may be rapidly, automatically, semi-automatically
 or otherwise discharged without reloading”).

1 extremely recent vintage” and therefore should not be upheld. Pls.’ MSJ at 16. But
2 there are two significant flaws with this argument. First, it ignores the dynamic
3 history of firearm regulation outlined above, of which the AWCA is a natural
4 extension. Second, AR-15s and similar rifles were not commercially available until
5 the second half of the twentieth century and were not popular in the American
6 marketplace until the 1980s. *See* Sec. II.A., *infra*. There can be no centuries-old
7 regulation for a firearm that did not exist. Rather, the “recent vintage” of the 1980s
8 and 1990s laws, when the AWCA and other modern laws prohibiting assault
9 weapons emerged, perfectly aligns with the ascendance of these firearms in
10 American life. *See id.*

11 As this historical record shows, the AWCA is the natural continuation of the
12 longstanding tradition of government prohibition or regulation of especially
13 dangerous weapons. This includes nearly a century of restrictions on semi-automatic
14 firearms with the ability to shoot large numbers of rounds in a short time without
15 reloading. These regulations have logically and necessarily progressed along with
16 improvements in firearm technology, growth in firearm popularity, and changes in
17 the national regulatory landscape. Given that broader historical context, any
18 relatively small lapse in the regulation of a certain firearm does not summarily render
19 any and all future regulations unconstitutional, nor does it nullify the entire
20 regulatory history. As such, the AWCA qualifies as a longstanding prohibition,
21 which, accordingly, falls outside the scope of the Second Amendment. *See, e.g.,*
22 *Drake v. Filko*, 724 F.3d 426, 432 (3d Cir. 2013) (finding that a concealed-carry
23 licensing standard that had been in effect “in some form for nearly 90 years”
24 “qualifies as a longstanding, presumptively lawful regulation”).

25 **II. The “Common Use” Test Proposed by Plaintiffs Is Illogical and Should**
26 **Not Be Followed.**

27 Plaintiffs assert that assault weapons must be afforded constitutional
28 protection because they are “owned and in common use by millions of Americans for

1 self-defense” and remain lawful “in all but a few states.” *See* Third Am. Compl.
 2 (“TAC”) ¶¶ 1-2 (ECF No. 60); *accord* Pls.’ MSJ at 13-14. There is neither firm
 3 legal footing nor sound logic in the “common use” test that Plaintiffs advance.

4 The argument that assault weapons must be afforded Second Amendment
 5 protection simply because they are widely available in other states dangerously
 6 misconstrues the Supreme Court’s decision in *Heller*. While the Second
 7 Amendment “does not protect those weapons not typically possessed by law-abiding
 8 citizens for lawful purposes, such as short-barreled shotguns,” *Heller*, 554 U.S. at
 9 625, it does not logically follow—and neither the Supreme Court nor other courts
 10 have held—that the Second Amendment somehow protects *all* weapons that have
 11 achieved some preordained degree of commercial success. *See Worman v. Healey*,
 12 293 F. Supp. 3d 251, 266 (D. Mass. 2018) (“[P]resent day popularity is not
 13 constitutionally material.”), *appeal docketed*, No. 18-1545 (1st Cir.).

14 A. **Plaintiffs’ “Common Use” Test Is Logically Circular and an**
 15 **Unreasonable Constraint on Federalism Principles.**

16 In addition to lacking a firm jurisprudential foundation, Plaintiffs’ “common
 17 use” test is hopelessly circular. Plaintiffs’ proposed approach would allow the
 18 constitutionality of weapons prohibitions to be decided not by how dangerous a
 19 weapon is, but rather by “how widely it is circulated to law-abiding citizens by the
 20 time a bar on its private possession has been enacted and challenged.” *Kolbe*, 849
 21 F.3d at 141. Just as “it would be absurd to say that the reason why a particular
 22 weapon can be banned is that there is a statute banning it, so that it isn’t commonly
 23 owned,” *Friedman*, 784 F.3d at 409, it would be similarly absurd to claim that a law
 24 is constitutionally barred because it addresses dangerous, but ongoing, activity. *See*
 25 Joseph Blocher & Darrell A.H. Miller, *Lethality, Public Carry, and Adequate*
 26 *Alternatives*, 53 Harv. J. on Legis. 279, 288 (2016) (discussing the “central
 27 circularity” that plagues the “common use” test: “what is common depends largely
 28 on what is, and has been, subject to regulation”). Yet, this is exactly what the

1 application of the “common use” test advocated by Plaintiffs would dictate, both
2 here and elsewhere.

3 This approach also fails to provide either workable standards or any
4 overarching guidance on whether the “common use” of assault weapons is
5 determined by considering the number produced, the number sold, or the number of
6 law-abiding owners. *See Kolbe*, 849 F.3d at 135-36. This distinction is critical.
7 Firearm ownership is extremely concentrated, with only 3% of American adults
8 possessing 50% of the country’s guns. *See Lois Beckett, Meet America’s Gun*
9 *Super-Owners—With An Average of 17 Firearms Each*, *The Guardian* (Sept. 20,
10 2016), <https://bit.ly/2cs0kFo>; *see also* Alex Yablon, *Most Californians Who Own*
11 *‘Assault Rifles’ Have 10+ Guns*, *The Trace* (Nov. 12, 2018), <https://bit.ly/2FFyQJO>
12 (reporting research finding that “four out of five assault rifles in [California] are
13 owned by people who own 10 or more guns”). If production or sales numbers form
14 the basis of the common use analysis, then this small group of gun owners would
15 essentially govern the meaning and reach of the Second Amendment. This
16 disproportionate influence of a tiny minority of the population cannot be what either
17 the Framers or the *Heller* Court intended.

18 A constitutional analysis driven by the prevalence of the prohibited firearm in
19 the market also would create perverse incentives for the firearms industry. Such an
20 analysis grants firearms manufacturers a unilateral ability to insulate highly
21 dangerous firearms with Second Amendment protection “simply by manufacturing
22 and heavily marketing them” before a government could assess their danger,
23 determine whether to regulate them, and build the political momentum to actually do
24 so. Cody J. Jacobs, *End the Popularity Contest: A Proposal for Second Amendment*
25 *“Type of Weapon” Analysis*, 83 *Tenn. L. Rev.* 231, 265 (2015); *see Kolbe*, 849 F.3d
26 at 141-42. Plaintiffs’ proposed framework would unreasonably “hinder efforts to
27 require consumer safety features on guns.” Jacobs, *supra*, at 267, 269. This is
28 because if there is any delay before states are able to mandate a new safety feature,

1 the firearm may reach some undefined level of “common use” sufficient to command
 2 Second Amendment protection. Given the emergence of new firearm technology
 3 (including, for example, 3D-printed gun components that are undetectable using
 4 traditional screening methods), and given the inevitability of future technological
 5 developments, Plaintiffs’ common use theory, if endorsed by this Court, would pose
 6 a serious threat to public safety. *See Jacobs, supra*, at 269.

7 These concerns about aggressive marketing and sales campaigns by
 8 manufacturers are not merely remote or hypothetical; they can be observed by
 9 looking at the weapons at issue in this very case. The AR-15 rifle—“the most
 10 popular of the prohibited assault weapons,” *Kolbe*, 849 F.3d at 124, which Plaintiffs
 11 reference throughout their complaint (*See* TAC ¶¶ 23-24, 26, 41-42, 48, 50, 107) and
 12 assert “has been available to the American public for over 60 years” (Pls.’ MSJ at
 13 16)—“did not catch on in the American market in a significant way until the late
 14 1980s.” Affidavit of Robert Spitzer, Ph.D. at ¶ 8 in *Worman v. Healey*, No. 17-cv-
 15 10107-WGY (D. Mass. Dec. 15, 2017), ECF No. 61-5; *see also* NRA Staff, *I Have*
 16 *This Old Gun: Colt AR-15 SP1, American Rifleman* (July 31, 2014),
 17 [https://www.americanrifleman.org/articles/2014/7/31/i-have-this-old-gun-colt-ar-15-](https://www.americanrifleman.org/articles/2014/7/31/i-have-this-old-gun-colt-ar-15-sp1/)
 18 [sp1/](https://www.americanrifleman.org/articles/2014/7/31/i-have-this-old-gun-colt-ar-15-sp1/) (statement of Martin K.A. Morgan, at 4:15-5:00). Indeed, it was only *after* the
 19 federal prohibition on assault weapons expired in 2004 that the gun industry focused
 20 its marketing resources on assault weapons, like the AR-15. The industry first
 21 promoted these weapons as “tactical rifles” or “black rifles,” and later—after a
 22 concerted post-*Heller* campaign launched in 2009 by the firearms industry’s chief
 23 trade association, the National Shooting Sports Foundation— as “modern sporting
 24 rifles.”¹² As a result of these coordinated industry efforts, the civilian sales of assault

25
 26 ¹² Compare, e.g., Smith & Wesson 2006 10-K at 3-4, 2007 Smith & Wesson 10-K at
 27 4, 2008 Smith & Wesson 10-K at 4, 2009 Smith & Wesson 10-K at 4, and 2010
 28 Smith & Wesson 10-K at 5 with, e.g., 2011 Smith & Wesson 10-K at 1, 3-6, and
 2012 Smith & Wesson 10-K, at 4, *available at* [http://ir.smith-](http://ir.smith-wesson.com/phoenix.zhtml?c=90977&p=irol-)
[wesson.com/phoenix.zhtml?c=90977&p=irol-](http://ir.smith-wesson.com/phoenix.zhtml?c=90977&p=irol-)

(cont’d)

1 weapons skyrocketed. *See* NRA Staff, *supra*, at 4:15-5:00 (noting that the AR-15’s
 2 popularity underwent a “fundamental evolution” after 2004, causing civilian sales to
 3 “explode[]”). But contemporary and aggressive marketing strategies should have no
 4 bearing on the meaning of the United States Constitution.

5 The history of the American firearms industry also makes clear why a market-
 6 based “common use” test does not make sense. As recent scholarship has found,
 7 “[f]or the nation’s first one hundred years, . . . the guns that were in ‘common use’
 8 were determined” not by manufacturers or consumers, but “by federal subsidization
 9 and regulation.” Lindsay Schakenbach Regele, *A Different Constitutionality for Gun*
 10 *Regulation*, 46 Hastings Const. L.Q. 523, 528-30 (2019) (“The sum total of this
 11 government regulation and subsidization determined what was in the market, and
 12 thus what firearms were in ‘common use’.”). Thus, contrary to what Plaintiffs’
 13 approach here would mandate, “[i]t is not historically sound . . . to allow gun
 14 manufacturers and marketers to determine what arms are in common use.” *Id.* at
 15 530. As discussed above, *see* Sec. I., *supra*, history instead provides strong support
 16 for sensible gun safety measures like the AWCA “that are consistent with the Second
 17 Amendment.” Regele, *supra*, at 523.

18 Beyond these logical and historical problems with Plaintiffs’ proposed
 19 “common use” test, a test that turns on nationwide manufacturing or sales totals
 20 would also create significant federalism consequences. Under such a test, whenever
 21 a new, potentially dangerous firearm feature became available, states would either
 22 have to act immediately, and in unison, to prevent such features from becoming
 23 widely available, or else forfeit their ability indefinitely to regulate such weapons
 24 going forward. States that might choose to gather more information before
 25 regulating would instead be incentivized to regulate reflexively, not reflectively.

26 (cont’d from previous page)
 27 sec&control_selectgroup=Annual%20Filings; *see also* National Shooting Sports
 28 Foundation, *The Term ‘Modern Sporting Rifle’* (Sept. 19, 2011),
<https://perma.cc/5KTF-W6B2>.

1 And if a state's citizens simply had a different position on gun policy, those
 2 legislative policy judgments would potentially extend far beyond that state's borders
 3 with outsized constitutional effects.

4 Legislators' decisions in one part of the country should not make laws in other
 5 parts any "more or less open to challenge under the Second Amendment."

6 *Friedman*, 784 F.3d at 408. If they did, that "would imply that no jurisdiction other
 7 than the United States as a whole can regulate firearms. But that's not what *Heller*
 8 concluded." *Id.* at 412. Because our Constitution "establishes a federal republic
 9 where local differences are cherished as elements of liberty," federalism is "no less
 10 part of the Constitution than is the Second Amendment." *Id.* The Supreme Court's
 11 decision in *Heller* (as applied to the states in *McDonald v. City of Chicago*, 561 U.S.
 12 742 (2010)) "does not foreclose *all* possibility of experimentation" by state and local
 13 governments, *Friedman*, 784 F.3d at 412, but rather permits them to do what they
 14 have long done in the realm of firearm legislation: "experiment with solutions to
 15 admittedly serious problems." *Jackson*, 746 F.3d at 970 (citation omitted); *see also*
 16 *McDonald*, 561 U.S. at 785 (noting that "[s]tate and local experimentation with
 17 reasonable firearms regulations will continue under the Second Amendment"
 18 (citation omitted)). The Plaintiffs' test would eviscerate their ability to do so.¹³

19 **B. The "Common Use" Test Should Instead Be Used To Evaluate**
 20 **Whether the Weapon Is Necessary for the Core Second Amendment**
Right of Home Defense.

21 To the extent that "common use" should play any role in the constitutional
 22 analysis, it should be tied to "the purpose of the right to keep and bear arms."
 23 Blocher & Miller, *supra*, at 291. The test should focus, in other words, on whether
 24 the regulated weapons are commonly used or are reasonably necessary *for self-*

25 _____
 26 ¹³ A counterfactual further demonstrates why Plaintiffs' "common use" test is
 27 inappropriate: If Congress had renewed the federal prohibition on assault weapons
 28 rather than permitting it to lapse in 2004, the weapons prohibited by the AWCA
 would not be in widespread use today and would therefore not be subject to Second
 Amendment protection under this "common use" theory.

1 defense or, in particular, *self-defense in the home*, which *Heller* holds is the core of
 2 the right. *See* 554 U.S. at 635. The D.C. Circuit, in upholding a similar law, has
 3 adopted that approach—and implicitly rejected the plaintiffs’ market-share “common
 4 use” test—by asking whether assault weapons “are commonly used or are useful
 5 specifically for self-defense.” *See Heller II*, 670 F.3d at 1261.

6 As the State demonstrates in its motion and accompanying expert reports, the
 7 assault weapons at issue in this case do not, and cannot, meet that standard. *See*
 8 Def.’s Mot. Summ. J. at 15-16, 19-23, ECF No. 73; Def.’s Ex. 1, ECF No. 76-1
 9 (Donahue Report); Def.’s Ex. 3, ECF No. 76-3 (Mersereau Report). Indeed, as
 10 courts have noted, such weapons are “unquestionably most useful in military
 11 service” rather than self-defense. *Kolbe*, 849 F.3d at 137; *see Gallinger*, 898 F.3d at
 12 1018-20 (endorsing *Kolbe*’s reasoning regarding the dangers posed by assault
 13 weapons and their minimal usefulness for self-defense). Put simply, and as the
 14 evidence before the Court shows, Plaintiffs’ assertion that the firearms banned by the
 15 AWCA fall within the purview of self-defense enunciated in *Heller* is patently
 16 wrong.

17 **III. The Use of Assault Weapons Makes Mass Shootings and Other Gun-**
 18 **Violence Incidents Deadlier and It Is in California’s Interest To Regulate**
 19 **These Weapons To Protect the Public.**

20 As the Ninth Circuit has recognized, “when ‘assault weapons and large-
 21 capacity magazines are used, more shots are fired and more fatalities and injuries
 22 result than when shooters use other firearms and magazines.’” *Gallinger*, 898 F.3d
 23 at 1019 (quoting *Kolbe*, 849 F.3d at 127). The data backs this up: Everytown’s
 24 analysis, as well as other relevant research, demonstrates that the use of assault
 25 weapons, particularly when coupled with LCMs, results in more people being shot,
 26 more injuries per victim, and more deaths. Because the AWCA does not implicate
 27 nor substantially burden a core Second Amendment right, intermediate scrutiny, at
 28 most, is the appropriate standard for this Court to apply in determining its
 constitutionality. *See Fyock*, 779 F.3d at 998-99. A statute survives intermediate

1 scrutiny under the Second Amendment if: (1) the government’s stated objective is
 2 “significant, substantial, or important”; and (2) there exists “a reasonable fit between
 3 the challenged regulation and the asserted objective.” *Id.* at 1000. The research
 4 below reflects the California legislature’s findings, and the data marshaled by the
 5 State in its moving papers: California has a significant, substantial, and important
 6 public interest in reducing the risk of harm to its residents from such assault
 7 weapons, and the AWCA is a reasonably tailored attempt to address this serious
 8 public safety concern.

9 ***Everytown’s research.*** Relying largely on press coverage and FBI data,
 10 Everytown has tracked and documented mass shootings since 2013 and has released
 11 several reports summarizing this data. While Everytown’s research cannot present a
 12 comprehensive dataset of the firearms used in every mass shooting (the reality of gun
 13 violence in the United States is that mass shootings are so frequent that this kind of
 14 information is either not reported or not readily available in every instance), the
 15 available information indicates that assault weapons make shootings significantly
 16 more deadly.

17 For example, data from Everytown’s continued tracking of mass shootings
 18 shows that when assault weapons are used, more than twice as many people are
 19 killed on average (10.1 per shooting versus 4.9) and more than ten times as many are
 20 shot and injured (11.4 per shooting versus 1.1). *See* Everytown, *Mass Shootings in*
 21 *the United States: 2009-2016*, Appendix (Mar. 2017), <https://every.tw/2JPBIVz>.
 22 Everytown’s tracking of mass shootings also shows that assault weapons are
 23 invariably used in the most deadly and injurious events. The Ninth Circuit has
 24 recognized the same. *See Gallinger*, 898 F.3d at 1018-19. Indeed, over the past
 25 decade, the six deadliest mass shooting incidents in America, one of which took
 26 place in California, all involved the use of assault weapons.¹⁴

27 ¹⁴ These shootings are: Las Vegas, Nevada (59 fatalities); Orlando, Florida (50
 28 fatalities); Newtown, Connecticut (28 fatalities); Sutherland Springs, Texas (27

(cont’d)

Mass shootings involving assault weapons are also “highly salient” events that have a unique impact that policymakers may consider when weighing policy choices. *Friedman*, 784 F.3d at 412. Such shootings like those that occurred at San Bernardino, Newtown, Las Vegas, Parkland, Sutherland Springs, and Aurora sear themselves into the national consciousness and affect the way people live their everyday lives. *See, e.g.,* Nikki Graf, *A Majority of U.S. Teens Fear a Shooting Could Happen at Their School, and Most Parents Share Their Concern*, Pew Research Ctr., Apr. 18, 2018, <https://www.pewresearch.org/fact-tank/2018/04/18/a-majority-of-u-s-teens-fear-a-shooting-could-happen-at-their-school-and-most-parents-share-their-concern/> (results of a survey conducted in the two months following the Parkland shooting showed that a majority of U.S. teens (57%) fear a shooting could happen at their school, and most parents (63%) share their concern); Steve LeVine, *School Shootings Have United Gen Z and Young Millennials*, Axios, Jan. 8, 2019, <https://www.axios.com/the-issue-that-unites-the-new-generation-64c8f46d-d4d2-4256-a393-c871ebc9adc0.html> (recent poll showing that school shootings are the number one issue for American youth, with 68% of people ages 14-29 say that school shootings are the most important issue facing the nation); Sophie Bethune, *APA Stress in America Survey: Generation Z Stressed About Issues in the News but Least Likely to Vote* (Oct. 30, 2018), <https://www.apa.org/news/press/releases/2018/10/generation-z-stressed> (according to the American Psychological Association, 75% of young people ages 15-21 say that

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fatalities); Parkland, Florida (17 fatalities); and San Bernardino, California (14 fatalities). *See* Bonnie Berkowitz, Denise Lu, & Chris Alcantara, *The terrible numbers that grow with each mass shooting*, Wash. Post, (Oct. 1, 2017) (continually updated), <https://wapo.st/2CMznZz>. Notably, the Parkland shooter specifically chose an AR-15 to use in the shooting rather than a different type of a firearm, stating in videos recorded in the days prior to the shooting that “[w]ith the power of my AR you will all know who I am.” Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report to the Governor, Speaker of the House of Representatives and Senate President*, at 256 (Jan. 2, 2019), <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>.

1 mass shootings are a significant source of stress); Alana Abramson, *After Newtown,*
 2 *Schools Across the Country Crack Down on Security*, ABC News (Aug. 21, 2013),
 3 <http://abcn.ws/1KwN9Ls> (comparing the impact of the Sandy Hook shooting on
 4 school security to that of 9/11 on airport security and noting that school districts have
 5 spent tens of millions of dollars on security improvements). While shootings on the
 6 scale of these tragedies remain statistically rare compared to the plague of day-to-day
 7 gun violence, their enormous impact reinforces the compelling justifications for the
 8 AWCA.

9 ***Other social-science research.*** Additional research—some of which the
 10 Ninth Circuit appears to reference in *Gallinger*, 898 F.3d at 1018-19—supports the
 11 conclusion reached by California that assault weapons pose significant dangers to
 12 public safety.

13 The evidence here is substantial. Assault weapons “tend to result in more
 14 numerous wounds, more serious wounds, and more victims.” *NYSRPA*, 804 F.3d at
 15 262; *accord Kolbe*, 849 F.3d at 140; *see also Gallinger*, 898 F.3d at 1019
 16 (acknowledging the “exceptional lethality of [assault weapons]”). They are designed
 17 to fire far more bullets, at a far faster rate than other firearms, with each round from
 18 an assault weapon having up to four times the muzzle velocity of a handgun round—
 19 and thus able to inflict much greater damage. *See* Peter M. Rhee et al., *Gunshot*
 20 *Wounds: A Review of Ballistics, Bullets, Weapons, and Myths*, 80 J. Trauma & Acute
 21 Care Surgery 853 (2016); *see also, e.g.,* Heather Sher, *What I Saw Treating the*
 22 *Victims from Parkland Should Change the Debate on Guns*, The Atlantic (Feb. 22,
 23 2018), <https://bit.ly/2u0rlr2> (“The injury along the path of the bullet from an AR-15
 24 is vastly different from a low-velocity handgun injury. . . The high-velocity bullet
 25 causes a swath of tissue damage that extends several inches from its path. It does not
 26 have to actually hit an artery to damage it and cause catastrophic bleeding. Exit
 27 wounds can be the size of an orange.”). And, as researchers examining mass
 28 shootings between 1982 and 2018 found, the sort of assault weapon rifles challenged

1 in this case are particularly dangerous, resulting in far more injuries per shooting
2 than handguns (an average of 29.9 injuries for assault rifle long guns and 7.7 injuries
3 for handguns). *See* Joshua D. Brown & Amie J. Goodin, *Mass Casualty Shooting*
4 *Venues, Types of Firearms, and Age of Perpetrators in the United States, 1982-2018*,
5 108 Am. J. of Pub. Health 1385, 1386 (2018),
6 <https://ajph.aphapublications.org/doi/10.2105/AJPH.2018.304584>.

7 Research regarding mass shootings is most telling here. A study of mass
8 shootings between 1981 and 2017 found that assault weapons accounted for 86% of
9 the 501 fatalities reported in 44 mass-shooting incidents. *See* Charles DiMaggio et
10 al., *Changes in U.S. Mass Shooting Deaths Associated with the 1994-2004 Federal*
11 *Assault Weapons Ban: Analysis of Open-Source Data*, 86 J. of Trauma and Acute
12 Care Surgery 11, 13 (2018), <https://bit.ly/2K44ZzQ>. Further, mass shootings were
13 also 70% less likely to occur between 1994 and 2004 when the federal prohibition on
14 assault weapons was in effect. *See* DiMaggio, *supra*, at 13. And researchers
15 estimate that a prohibition on assault weapons would have prevented 314 of the 448
16 mass-shooting deaths that occurred during the studied periods when the federal
17 prohibition was not in effect. *See* DiMaggio, *supra*, at 13; *see also* Louis Klarevas,
18 *Rampage Nation: Securing America from Mass Shootings* 240-43 (2016) (finding
19 that, as compared to the ten-year period before the federal ban went into effect, the
20 number of gun massacres where six or more people were shot and killed fell by 37%
21 during the ban period; the number of people dying from gun massacres fell by 43%;
22 and gun massacres increased by 183% and massacre deaths by 239% in the decade
23 after the ban lapsed); Christopher Ingraham, *It's Time to Bring Back the Assault*
24 *Weapons Ban, Gun Violence Experts Say*, Wash. Post (Feb. 15, 2018),
25 <https://wapo.st/2JjFISk> (discussing Klarevas's research). Moreover, a 2016 survey
26 of experts in the fields of criminology, law, and public health identified assault
27 weapons prohibitions as among the most effective policy measures for preventing
28 mass shootings. *See* Margot Sanger-Katz & Quoc Trung Bui, *How to Reduce Mass*

1 *Shooting Deaths? Experts Rank Gun Laws*, N.Y. Times (Oct. 5, 2017),
 2 <https://nyti.ms/2yPr0bo>.

3 In addition to mass shootings, a recent study indicates that criminals are also
 4 using assault weapons in the day-to-day gun violence that plagues this nation, with
 5 assault weapons accounting for up to 12% of guns used in all crime and up to 16% of
 6 guns used in murders of police. Christopher S. Koper et al., *Criminal Use of Assault*
 7 *Weapons and High-Capacity Semiautomatic Firearms: An Updated Examination of*
 8 *Local and National Sources*, 95 J. Urb. Health 313 (Oct. 2017),
 9 <https://goo.gl/cwgrcq>. As stated by the Second and Fourth Circuits, assault weapons
 10 “are disproportionately used in crime, and particularly in criminal mass shootings,”
 11 and “are also disproportionately used to kill law enforcement officers.” *NYSRPA*,
 12 804 F.3d at 262; *Kolbe*, 849 F.3d at 140.

13 Thus far, California’s legislative and regulatory efforts to curb gun violence
 14 have had success. For example, California has among the lowest gun-death rates per
 15 capita in the nation despite being the most populous state with the second-highest
 16 number of registered guns. See Tim Arango & Jennifer Medina, *California Is*
 17 *Already Tough on Guns. After a Mass Shooting, Some Wonder if It’s Enough*, N.Y.
 18 Times (Nov. 10, 2018), [https://www.nytimes.com/2018/11/10/us/california-shooting-](https://www.nytimes.com/2018/11/10/us/california-shooting-guns.html)
 19 [guns.html](https://www.nytimes.com/2018/11/10/us/california-shooting-guns.html). The AWCA has been and continues to be an important element of
 20 California’s continued efforts to prevent gun violence. Additional regulations, such
 21 as the amendment to the AWCA to address the bullet-button magazine loophole that
 22 led to the staggering death toll in the San Bernardino shooting, continue to be
 23 constitutional exercises of the State’s power to protect the welfare of its citizens.

24 Accordingly, whether this Court looks to the most recent empirical research,
 25 conducts a historical analysis of relevant laws, or looks to guidance from other
 26 federal circuits and California state courts, the outcome is the same: the AWCA
 27 should be upheld.

28 //

CONCLUSION

For the foregoing reasons, Everytown respectfully requests that the Court grant the State of California's Motion for Summary Judgment and deny Plaintiffs' Motion for Summary Judgment.

Dated: April 1, 2019

Respectfully submitted,

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EXHIBIT 20
TO THE DECLARATION OF JOHN D. ECHEVERRIA



Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: an Updated Examination of Local and National Sources

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Abstract Policies restricting semiautomatic assault weapons and large-capacity ammunition magazines are intended to reduce gunshot victimizations by limiting the stock of semiautomatic firearms with large ammunition capacities and other military-style features conducive to criminal use. The federal government banned such weaponry from 1994 to 2004, and a few states currently impose similar restrictions. Recent debates concerning these weapons have highlighted their use in mass shootings, but there has been little examination of their use in gun crime more generally since the expiration of the federal ban. This study investigates current levels of criminal activity with assault weapons and other high-capacity semiautomatics in the USA using several local and national data sources including the following: (1) guns recovered by police in ten large cities, (2) guns reported by police to federal authorities for investigative tracing, (3) guns used in murders of police, and (4) guns used in mass murders. Results suggest assault weapons (primarily assault-type rifles) account for 2–12% of guns used in crime in general (most estimates suggest less than 7%) and 13–16% of guns used in murders of police. Assault weapons and other high-capacity semiautomatics together generally account for 22 to 36% of crime guns, with some estimates upwards of 40% for cases involving serious

violence including murders of police. Assault weapons and other high-capacity semiautomatics appear to be used in a higher share of firearm mass murders (up to 57% in total), though data on this issue are very limited. Trend analyses also indicate that high-capacity semiautomatics have grown from 33 to 112% as a share of crime guns since the expiration of the federal ban—a trend that has coincided with recent growth in shootings nationwide. Further research seems warranted on how these weapons affect injuries and deaths from gun violence and how their regulation may impact public health.

Keywords Firearms · Assault weapons · Violence

Introduction

Firearm violence imposes a significant burden on public health in the USA. From 2010 through 2012, the nation experienced an annual average of 11,256 firearm homicides and 48,534 non-fatal assault-related gunshot victimizations that cost society nearly \$22 billion a year in lifetime medical and work-related costs [1]. One type of policy response to reduce gun violence involves restricting or mandating design changes in particular types of firearms that are considered to be especially dangerous and/or attractive for criminal use.

Restrictions on assault weapons (AWs) represent one particularly controversial and highly contested form of such legislation that has featured prominently in gun policy debates in recent decades. In general, AW laws

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restrict manufacturing, sales, and ownership of semiautomatic firearms with large ammunition capacities and other military-style features that appear useful in military and criminal applications but unnecessary in shooting sports or self-defense [2]. Examples of such features include pistol grips on rifles, flash hiders, folding rifle stocks, threaded barrels for attaching silencers, and barrel shrouds on pistols. AW laws also commonly include restrictions on large-capacity magazines (LCMs), which are typically defined as ammunition feeding devices holding more than ten rounds of ammunition (some laws have higher limits). LCM restrictions are arguably the most important components of AW laws in that they also apply to the larger class of high-capacity semiautomatic firearms without military-style features. In the broadest sense, AW-LCM laws are thus intended to reduce gunshot victimizations by limiting the stock of semiautomatic firearms with large ammunition capacities and other features conducive to criminal use. The federal government enacted a national ban on AWs and LCMs in 1994 but allowed it to expire in 2004. Currently, eight states and the District of Columbia have AW and/or LCM restrictions, as do some additional localities [3].

Recent discussion and debates concerning these weapons have largely focused on their use in mass shootings. However, there has been little examination of the use of AWs and LCMs in gun crime more generally since the expiration of the federal ban. Studies conducted around the time of the federal ban found that AWs accounted for up to 8% of guns used in crime (generally between 1 and 6% and averaging around 2%) and that the broader class of firearms equipped with LCMs (including AWs and other semiautomatic firearms equipped with LCMs) accounted for up to a quarter [2, 4–12]. Criminal use of such weaponry declined during the years of the federal ban [2, 13, 14], but trends since then have only been examined in the state of Virginia, where LCM use rose following the ban's expiration [14]. Semiautomatic weapons with LCMs and/or other military-style features are common among models produced in the contemporary gun market [15, 16], but precise estimates of their production and ownership are unavailable. Growth in the use of such weapons could have important implications for public health as these weapons tend to produce more lethal and injurious outcomes when used in gun violence [2, 17]. This study provides an updated examination of the AW issue by investigating current levels of criminal activity

with AWs and other LCM firearms as measured in a variety of national and local data sources.

Data and Methods

There is no national data source that can be used to count the numbers of homicides, non-fatal shootings, or other crimes committed with AWs and other LCM firearms. Therefore, criminal use of these weapons was approximated by examining and triangulating across several local and national data sources on guns used in different types of crimes.

Local Data Sources

The local-level analyses are based on guns recovered by police over multiple years (defined below) in a convenience sample of ten cities including Hartford (CT), Rochester (NY), Syracuse (NY), Baltimore (MD), Richmond (VA), Minneapolis (MN), Milwaukee (WI), Kansas City (MO), Seattle (WA), and Sacramento (CA). Large cities were selected for the analysis (these cities range in size from roughly 124,000 to 684,500) due to the concentration of gun violence in urban areas [18, 19]. Patterns and trends in these particular cities may not be indicative of those elsewhere; further, some (Baltimore, Hartford, Rochester, Syracuse, and Sacramento) are covered by state AW and LCM restrictions that were in effect during all or portions of the study period (this study does not attempt to evaluate the implementation and effects of these laws or variations therein). Nonetheless, these cities constitute a geographically diverse set of ban and non-ban locations, thus strengthening generalizations. The data were obtained from law enforcement authorities in these jurisdictions except where otherwise noted. Information available in most of the police databases included the type, make, model, and caliber of each confiscated firearm; the date when it was recovered; and the type of crime with which it was associated.

Guns recovered by police (often referred to as “crime guns”) are the only readily available data with which to study patterns and trends in the types of guns used in crime across jurisdictions, and they are commonly used in research on gun markets, gun violence, and gun policy [2, 9, 20–37]. Guns confiscated by police include guns recovered in violent crime investigations as well as those recovered in connection with weapon offenses

(illegal possession, carrying, and discharges), drug violations, property crimes, and other incidents. These samples thus represent guns known to have been used in violence as well as guns possessed and/or carried by criminal and otherwise high-risk persons. As others have noted, they represent a sample from the population of guns that are at greatest risk of misuse [24] and thereby provide a probable sample of guns used to commit crimes [21]. As caveats, nonetheless, it should be noted that police do not recover all guns used and possessed illegally, and it is possible that the types of guns they confiscate differ from those of unrecovered guns linked to illegal possessors and users. The analyses highlighted below are based on all confiscated firearms in the study jurisdictions. Additional analyses conducted with just those guns clearly connected to a violent offense, which represented at least 13 to 19% of guns across the cities, produced very similar results except where noted (separate offense-type analyses could not be conducted with the Syracuse and Rochester gun data or the Richmond LCM data).

National Data Sources

National-level analyses were conducted using three data sources and compilations. The first consists of information on firearms recovered by law enforcement agencies throughout the nation and reported to the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) for investigative tracing of their sale histories. Guns reported to ATF provide a national sample of crime guns numbering in the hundreds of thousands annually (predominantly from urban jurisdictions), but they do not constitute a statistically representative sample for the nation given that gun tracing is voluntary (agencies trace guns as needed for specific investigations and/or analysis of illegal gun markets) and varies between agencies and over time [24, 27, 38–40]. Further, publicly available data on traced guns are limited to aggregate figures on basic types and calibers of the weapons, thus limiting the analyses that could be conducted as described below. The other national data sources included information on guns used in murders of police officers and mass murder incidents. Prior research has shown that AWs and LCM firearms are used in a higher share of these crimes, due presumably to their lethality and attractiveness to the types of offenders who commit these offenses [2, 4], and this has been a prominent issue in the AW debate. Information on firearms used in murders of police,

including the type, make, model, and caliber of each weapon, was obtained from the Federal Bureau of Investigation (FBI), which compiles these data from reports by police agencies throughout the country. Information on firearms used in mass murder shooting incidents was collected from lists and reports compiled by several organizations since there is no single official data source that regularly provides detailed and comprehensive information on mass murders and the guns used in these incidents [41–50]. Consistent with many prior studies of this issue, firearm mass murders were defined as incidents in which four or more people were murdered with a firearm, not including the death of the shooter if applicable and irrespective of the number of additional victims shot but not killed. This increased the number of sources that could be used to gather information. As described below, however, detailed weapon information could not be found in public sources for many of the cases.

Methods

There is no universal definition of an AW that applies across current and past AW laws. For example, the expired federal ban and some current state laws define AWs as having two military-style features, whereas other state bans and a recent (2013) proposal for a new federal ban use a one feature criterion [2, 51]. For this study, AWs were defined based on the weapons that have most commonly been identified as such based on the old federal ban, current state laws, and the recently proposed federal ban. This list included more than 200 make-model combinations covered by either of the federal lists (2004 and 2013) or at least two of the state laws. Based on preliminary analyses showing that most recovered AWs are assault rifles (as opposed to assault pistols or assault shotguns), an additional ceiling estimate of AW use was calculated based on the prevalence of semiautomatic rifles. This was also done to compensate for imprecision in the AW estimates (due, for example, to missing or partial gun model data, lack of information about the specific features or configurations of the weapons that could affect their AW status, and possible omissions from the operational AW list).

Use of guns with LCMs could only be measured precisely for the Syracuse, Baltimore, and Richmond analyses, which are based on data sources having an indicator for magazine capacity (which is typically

missing from police gun databases), and some of the mass murder incidents. For most analyses, use of LCM firearms was approximated based on recoveries of semi-automatics that are commonly manufactured and sold with LCMs, referred to below as LCM-compatible firearms. Identification of these models was based on gun catalogs (such as the *Blue Book of Gun Values* and *Gun Digest*) and examination of gun manufacturers' websites. This method likely overstates LCM use to some degree since many LCM compatible firearms can also be equipped with smaller magazines. As a rough guide, inspection of all recoveries of a small number of LCM-compatible handgun models in the Baltimore data revealed that approximately four of five were equipped with LCMs. Conversely, LCM use can also be undercounted for guns that were missing complete model information or equipped with aftermarket LCMs, which are available for some guns not sold with LCMs at retail. LCM use was not estimated for Rochester and Sacramento since New York and California have had longstanding restrictions on magazines with more than ten rounds (hence, it seems less likely that LCM-compatible guns recovered in those jurisdictions were actually equipped with LCMs).

Data were collected from 2014 through 2016. Current estimates of AW and LCM use were developed using the most recent 2–3 years of data from the local police databases and ATF data. Data spanning the most recent 5–6 years were used to generate contemporary estimates of AW and LCM use in murders of police and mass murders due to the rarity of these events. As described below, some data sources were also used to estimate trends in the use of semiautomatic rifles and LCM firearms since the expiration of the federal ban. Reported figures highlight AWs and LCM firearms as a share of crime guns in order to control for differences in the volume of gun crime and overall gun recoveries between places and over time. Other noteworthy aspects of the data and analyses are discussed below.

Results

Local Analyses

Results of the local analyses are presented in Table 1. For each site, estimates are based on data spanning different portions of the 2011–2014 period. The number of guns

analyzed ranged from 281 in Syracuse to 4994 in Kansas City and totaled 21,551 across all data sources.

Estimates of the prevalence of AWs among crime guns ranged from a low of 2.4% in Baltimore to a high of 8.5% in Syracuse. Assault rifles (e.g., variations of the AR-15 or AK-47) accounted for the majority of AWs in all sites and more than three-quarters in all but one (Richmond). The remaining AWs consisted entirely (or nearly so) of assault pistols (e.g., the TEC-9 or TEC-22). The share of crime guns consisting of semiautomatic rifles of any sort is also displayed in Table 1 for localities that had gun databases with gun-type designations (i.e., handgun/rifle/shotgun, semiautomatic/non-semiautomatic). These estimates ranged from a low of 4.1% in Hartford to 12.4% in Rochester but were less than 9% for most cities. (The Milwaukee estimate is based on the percentage of crime guns that were rifles of any sort as semiautomatic/non-semiautomatic designations were unavailable.) As noted, the semiautomatic rifle estimates, which include both AW-type and non-AW-type rifles, provide a likely ceiling for estimates of AW prevalence.

The percentage of crime guns clearly equipped with an LCM (including AWs and other high-capacity semiautomatics, most of which are pistols) was 16.5% in Baltimore during the 2012–2014 period, but this figure rose to 21.5% for guns that were connected to a violent crime. These findings are similar to those from a recent news report (involving a separate and independent analysis of Baltimore data) indicating that 18.4% of guns recovered in Baltimore had LCMs for the period of 2010 through 2016 [52]. In Richmond, 22% of crime guns were equipped with LCMs during 2008 and 2009 based on data collected by the Virginia State Police and initially reported by *The Washington Post* [14] (the *Post's* reported figures have been reanalyzed here to focus on the most recent available years and to assess trends). Crime guns were least likely to be equipped with LCMs in Syracuse (14.6%), where New York State LCM restrictions have been in effect since the early 2000s.

For the other sites, the prevalence of LCM-compatible guns ranged from 22.2% in Hartford to 36.2% in both Kansas City and Seattle, with the majority of the estimates (3 of 5) higher than one-third. In most of these cities, the prevalence of LCM guns was similar whether focusing on all guns or those connected to a violent crime. In Hartford, however, 30% of violent crime guns were LCM compatible in contrast to 22.2% for all guns. Further, a supplemental analysis of guns linked to assault-

Table 1 Prevalence of assault weapons, semiautomatic rifles, and semiautomatics with large-capacity magazines among guns recovered by police: estimates for selected cities and years

Location and sample	Assault weapons as % of guns	Semiautomatic rifles as % of guns	Semiautomatics with large-capacity magazines as % of guns
Hartford, CT (2011–2012, <i>N</i> = 854)	2.6%	4.1%	22.2% overall, 30% for guns linked to violent crime
Rochester, NY (2012–July 2014, <i>N</i> = 1687)	4.9%	12.4%	Not estimated
Syracuse, NY (2012–May 2014, <i>N</i> = 281)	8.5%	12.1%	14.6%
Baltimore, MD (2012–Sep. 2014, <i>N</i> = 4680)	2.4%	5.4%	16.5% overall, 21.5% for guns linked to violent crime
Richmond, VA (AW analysis: 2012–2013, <i>N</i> = 1180) (LCM analysis: 2008–2009, <i>N</i> = 1960)	2.7%	Not estimated	22.0%
Minneapolis, MN (2012–Aug. 2014, <i>N</i> = 2178)	3.4%	6.4%	25.1% overall, 46.3% for guns linked to shootings
Milwaukee, WI (Jul. 2013–Jun. 2014, <i>N</i> = 1868)	4.6%	< 9.4%	35.5%
Kansas City, MO (2012–Aug. 2014, <i>N</i> = 4994)	6.1%	6.3%	36.2%
Seattle, WA (2012–July 2014, <i>N</i> = 596 guns linked to violent crimes or weapons violations)	6.4%	7.9%	36.2%
Sacramento, CA (Aug. 2013–Jul. 2014, <i>N</i> = 1273)	6.0%	Not estimated	Not estimated

Estimates are based on general gun recovery samples except where noted. Estimates were similar for guns known to have been connected to violent crimes except where noted. Large-capacity magazine (LCM) estimates for Syracuse, Baltimore, and Richmond are based on known LCM recoveries (the Richmond estimates are based on Virginia State Police data initially reported by *The Washington Post*). Other LCM estimates are based on recoveries of LCM compatible firearm models. The Milwaukee semiautomatic rifle estimate is based on the prevalence of all rifles

related shootings in Minneapolis (using gunshot victimization data provided by Minneapolis police) revealed that 46.3% were LCM compatible, though this was based on a small sample (*n* = 80 guns).

National Analyses

Results of the national analyses are presented in Table 2. AW prevalence was approximated in the national ATF tracing data for 2012 and 2013 (*n* = 481,632) based on traces of guns in calibers .223, 5.56, and 7.62 mm. These are common calibers for AW-type semiautomatic rifles, though not all firearms in these calibers are AWs, and not all AWs fall into these calibers. This method nonetheless yielded an estimate of 5%, which is within the range of estimates provided by the local analyses. Further estimates of semiautomatic rifles and LCM firearms were not possible given the limitations of published tracing data.

Guns used in murders of police were analyzed for the years 2009 through 2013 (*n* = 219, excluding cases involving the officers' own weapons, which are often LCM firearms). AWs accounted for an estimated 13.2% of the firearms used in these crimes overall and varied

between 8 and 18% from year to year. Virtually all of the AWs (97%) were assault rifles. Semiautomatic rifles overall accounted for 15.5% of the firearms used in these cases and ranged from 5 to 23% annually. LCM-compatible firearms more generally constituted 40.6% of the murder weapons, ranging from 35 to 48% annually.

AW and LCM use in firearm mass murders was examined for a sample of 145 incidents that occurred from 2009 through 2015 but could only be estimated within broad ranges due to high levels of missing weapons data in public accounts. AWs were used in at least 10.3% of these incidents. However, only 42 incidents had sufficiently detailed weapon information to make a definitive determination regarding AW use; among these cases, 35.7% involved AW use. All but one AW case involved an assault rifle. (A separate estimate for semiautomatic rifle use is not presented because only two additional cases clearly involved a semiautomatic rifle with an unclear or non-AW designation.) LCM firearms overall were involved in at least 18.6% of the incidents based on cases that involved clear possession of LCMs, AWs, or other LCM-compatible models. Although many additional cases involved semiautomatic firearms, an LCM coding could

Table 2 Prevalence of assault weapons, semiautomatic rifles, and semiautomatics with large-capacity magazines among national samples of guns recovered by police, guns used in murders of police, and guns used in mass murders

Data source and sample	Assault weapons as % of guns	Semiautomatic rifles as % of guns	Semiautomatics with large-capacity magazines as % of guns
Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF): guns recovered by police and reported to ATF for investigative tracing (2012–2013, $N = 481,632$)	5%	Not estimated	Not estimated
Federal Bureau of Investigation: guns used in murders of police (2009–2013, $N = 219$)	13.2%	15.5%	40.6%
Public reports of firearm mass murders (4+ killed) (2009–2015, $N = 145$)	10.3–35.7%	Not estimated	18.6–57.4%

Assault weapon estimate for ATF data is based on reported firearms in calibers .223, 5.56, and 7.62 mm. LCM estimates are based on recoveries of LCM compatible firearm models in the FBI data and recoveries of both LCMs and LCM compatible firearms in the mass murder data

only be made for 47 cases, 57.4% of which involved an LCM firearm. The identified AW and LCM cases typically occurred in public locations (80%) and resulted in more than twice as many people shot on average as did other incidents (13.7 victims on average for AW-LCM cases versus 5.2 for other cases; t test p level < 0.01).

Trend Analyses

Trends in the use of AWs and LCM firearms since the end of the federal AW ban or the early post-ban years were also estimated using selected data sources that had sufficiently detailed weapon information and spanned the period of interest. First, trends in recoveries of semiautomatic rifles were used to approximate trends in crime with AWs using the FBI national data on police murders (2003–2013) and data from the following cities and time periods: Baltimore (2004–2014), Rochester (2004–2014), Syracuse (2004–2014), Milwaukee (2006–2014, based on all rifles), Seattle (2008–2014), Minneapolis (2006–2014), and Kansas City (2008–2014). In summary, these analyses (not shown) revealed little evidence of upward trends in the use of semiautomatic rifles across sites.

Second, trends in crimes with LCM firearms were estimated based on guns used in murders of police (2003–2013) as well as guns recovered in Baltimore (2004–2014), Richmond (2003–2009), and Minneapolis (2006–2014). Table 3 shows changes over time in the percentage of guns that were LCM firearms using the earliest and latest years of each data source. In relative

terms, the prevalence of LCM firearms increased from 33 to 49% in the Baltimore, Minneapolis, and national (FBI) data (note that Maryland restricted LCMs with more than 20 rounds throughout this period and extended these restrictions to LCMs with more than 10 rounds in late 2013). The largest increase occurred in Richmond, where LCM firearms increased 111.5%, rising from 10.4% of recovered guns in 2003–2004 (the final years of the federal AW ban) to 22% in 2008–2009. Similar trends have also been reported for the state of Virginia overall [14]. All of these changes were statistically significant ($p < 0.05$) based on chi-square tests of the equality of proportions.

Discussion

Subject to caveats noted above, this examination of several national and local data sources suggests that AWs are used in between 2 and 9% of gun crimes in general with most estimates being less than 7%. Upper bound estimates of AW use based on semiautomatic rifles range from 4 to 12% in most data sources and are typically less than 9%. These estimates are broadly similar to those generated in the early 1990s prior to the federal AW ban [2], though they are perhaps somewhat higher on average. However, comparisons of these estimates with others should be made cautiously, as operational definitions of an AW have varied across studies and estimates presented here are based on the most contemporary definitions of AWs. One clearly notable

Table 3 Changes in prevalence of semiautomatics with LCMs: estimates for selected local and national data sources and time frames, 2003–2014

Data source/location	LCM firearm prevalence: early time period	LCM firearm prevalence: late time period	Change in LCM firearm prevalence
Baltimore crime guns	11.1% (2004, 2006, N = 5369 total firearms)	16.5% (2012–Sep. 2014, N = 4381 total firearms)	+ 48.6%**
Richmond, VA crime guns	10.4% (2003–2004, N = 2413 total firearms)	22.0% (2008–2009, N = 1960 total firearms)	+ 111.5%**
Minneapolis crime guns	16.8% (2006–2007, N = 2564 total firearms)	25.1% (2012–Aug. 2014, N = 2178 total firearms)	+ 49.4%**
National (FBI): guns used in murders of police	30.4% (2003–2007, N = 224 total firearms)	40.6% (2009–2013, N = 219 total firearms)	+ 33.6%*

Change in proportions statistically significant at $p < 0.05$ (*) or $p < 0.01$ (**)

Estimates are based on general gun recovery samples except where noted. LCM estimates for Baltimore and Richmond are based on known LCM recoveries (the Richmond estimates are based on Virginia State Police data initially reported by *The Washington Post*). The early period estimate for Baltimore excludes the year 2005 due to an unusually large number of guns appearing that year within the buyback/turn-in/safekeeping category. Other LCM estimates are based on recoveries of LCM compatible firearm models

recent change is that assault rifles, rather than assault pistols, now account for a substantial majority of AWs used in crime in contrast to prior estimates [2]. This implies an increase over time in the average lethality of AWs used in violence.

LCM firearms, which include AWs as well as other high-capacity semiautomatics, appear to account for 22 to 36% of crime guns in most places, with some estimates upwards of 40% for cases involving serious violence. These estimates are comparable to or higher than earlier estimates of LCM use. However, the higher-end estimates may overstate LCM use somewhat as most are based on measurement of LCM-compatible guns that may not all have been equipped with LCMs.

Consistent with prior research, this study also finds that AWs and LCM firearms are more heavily represented among guns used in murders of police and mass murders. AWs account for 13–16% of guns used in murders of police, while LCM weapons overall account for about 41% of these weapons. Estimates for firearm mass murders are very imprecise due to lack of data on the guns and magazines used in these cases, but available information suggests that AWs and other high-capacity semiautomatics are involved in as many as 57% of such incidents. Further, they are particularly prominent in public mass shootings and those resulting in the highest casualty counts.

Importantly, trend analyses suggest that LCM firearms have grown substantially as a share of crime guns since the expiration of the federal ban on AWs and LCMs. This implies possible increases in the level of

gunfire and injury per gun attack during this time. Consistent with this inference, national statistics from the Centers for Disease Control and Prevention (CDC) and the FBI show that the ratio of gun homicides and assaultive non-fatal shootings to overall reported violent gun crimes (homicides, assaults, and robberies) rose from an average of 0.163 for 2003–2005 to an average of 0.21 for 2010–2012 (calculated from CDC [53] and FBI [54] data). This change was driven by non-fatal shootings, which have been trending upward since the early 2000s and recently reached their highest levels since 1995 [1]. The findings presented in this study suggest the possibility that greater use of high-capacity semiautomatics has contributed to this upward trend in shootings.

Further study would seem warranted on LCM use trends with additional jurisdictions and data sources. Research on this issue could be facilitated by more systematic efforts to collect detailed information on crime guns and magazines in local police databases as well as through national data collection systems like the Supplemental Homicide Reports and the National Violent Death Reporting System. Study of these weapons is also hampered by lack of public data on production of LCMs and LCM-compatible firearms. The need for better data on this issue may become more pressing if there continue to be significant changes in the lethality of commercially available firearms.

Additional research is also needed to quantify the effects that LCM use has on injuries and deaths from gun attacks—and by extension on the costs to society

from gun violence. Research suggests that gunfire attacks involving semiautomatics produce more lethal and injurious outcomes [2, 10, 17, 55] and that 4–5% of assault-related gunshot victims are wounded in attacks involving more than ten shots fired [2]. However, such evidence is extremely limited at present. Studies of this issue, combined with evaluation research on the effects of current state and local LCM laws, could provide additional insights into the efficacy of expanding LCM restrictions at the local, state, and/or national levels. Research illuminating the public health and safety benefits of AW-LCM restrictions could also inform the courts as they continue to adjudicate recent challenges to the constitutionality of these statutes. Although this study does not directly evaluate any AW-LCM law, it provides further evidence that the federal ban curbed the spread of high-capacity semiautomatic weapons when it was in place and, in so doing, may have had preventive effects on gunshot victimizations.

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EXHIBIT 21
TO THE DECLARATION OF JOHN D. ECHEVERRIA



DEPARTMENT OF
THE TREASURY
STUDY ON
THE SPORTING
SUITABILITY
OF MODIFIED
SEMI-AUTOMATIC
ASSAULT RIFLES

APRIL 1998

TABLE OF CONTENTS

	Page
1. Executive Summary.....	1
2. Background.....	4
3. Defining the Type of Weapon Under Review.....	16
4. Scope of “Sporting Purposes”.....	16
5. Method of Study.....	19
6. Suitability for Sporting Purposes.....	21
7. Determination.....	36
8. Exhibits:	
White House Memorandum: Importation of Modified Semiautomatic Assault-type Rifles	
Study Rifle Models	
Study Rifles	
ATF Form 4590, Factoring Criteria for Weapons	
Military Configuration	
Memorandum to File From First Meeting of Firearms Advisory Panel	
State Fish and Game Commission Review	
9. Appendix: Summary of Externally Gathered Information	

EXECUTIVE SUMMARY

On November 14, 1997, the President and the Secretary of the Treasury ordered a review of the importation of certain modified versions of semiautomatic assault rifles into the United States.¹ The decision to conduct this review stemmed in part from concerns expressed by members of Congress and others that the rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable in a 1989 decision by the Bureau of Alcohol, Tobacco and Firearms (ATF). The decision also stemmed from the fact that nearly 10 years had passed since the last comprehensive review of the importation of rifles, and many new rifles had been developed during this time.

Under 18 U.S.C. section 925(d)(3), the Secretary shall approve applications for importation only when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”). In 1989, ATF denied applications to import a series of semiautomatic versions of automatic-fire military assault rifles. When ATF examined these semiautomatic assault rifles, it found that the rifles, while no longer machineguns, still had a military configuration that was designed for killing and disabling the enemy and that distinguished the rifles from traditional sporting rifles. This distinctively military configuration served as the basis for ATF’s finding that the rifles were not considered sporting rifles under the statute.

The military configuration identified by ATF incorporated eight physical features: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF took the position that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic rifle not importable.

Subsequent to the 1989 decision, certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features other than the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still had the ability to accept a detachable magazine but, more specifically, still had the ability to accept a detachable large capacity magazine that

¹ The President and the Secretary directed that all pending and future applications for importation of these rifles not be acted upon until completion of the review. They also ordered that outstanding permits for importation of the rifles be suspended for the duration of the review period. The existence of applications to import 1 million new rifles and outstanding permits for nearly 600,000 other rifles threatened to defeat the purpose of the expedited review unless the Department of the Treasury deferred action on additional applications and temporarily suspended the outstanding permits. (See exhibit 1 for a copy of the November 14, 1997, memorandum directing this review.)

The rifles that are the subject of this review are referred to in this report as “study rifles.”

was originally designed and produced for the military assault rifles from which they were derived. These magazines are referred to in this report as “large capacity military magazines.” Study rifles with the ability to accept such magazines are referred to in this report as “large capacity military magazine rifles,” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308 (an AK47 variant), is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found to meet the sporting purposes test. Accordingly, the study rifles were approved for import into the United States.

These modified rifles are the subject of the present review. Like the rifles banned in 1989, the study rifles are semiautomatic rifles based on AK47, FN-FAL, HK91 and 93, Uzi, and SIG SG550 military assault rifles. While there are at least 59 specific model designations of the study rifles, they all fall within the basic designs listed above. There are at least 39 models based on the AK47 design, 8 on the FN-FAL design, 7 on the HK91 and 93 designs, 3 on the Uzi design, and 2 on the SIG SG550 design (see exhibit 2 for a list of the models). Illustrations of some of the study rifles are included in exhibit 3 of this report.

This review takes another look at the entire matter to determine whether the modified rifles approved for importation since 1989 are generally recognized as particularly suitable for or readily adaptable to sporting purposes.² We have explored the statutory history of the sporting purposes test and prior administrative and judicial interpretations; reexamined the basic tenets of the 1989 decision; analyzed the physical features of the study rifles, as well as information from a wide variety of sources relating to the rifles’ use and suitability for sporting purposes; and assessed changes in law that might have bearing on the treatment of the rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding

² The study was carried out by a working group composed of ATF and Treasury representatives. The working group’s activities and findings were overseen by a steering committee composed of ATF and Treasury officials.

devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. Specifically, Congress found that these magazines served “combat-functional ends” and were attractive to criminals because they “make it possible to fire a large number of rounds without reloading, then to reload quickly when those rounds are spent.”³ Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. Accordingly, we found that the ability to accept such a magazine is a critical factor in the sporting purposes test, which must be given the same weight as the other military configuration features identified in 1989.

In addition, the information we collected on the use and suitability of LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our review of this information indicated that, with certain exceptions, the LCMM rifles sometimes are used for hunting, their actual use in hunting is limited. There are even some general restrictions and prohibitions on the use of semiautomatic rifles for hunting game. Similarly, although the LCMM rifles usually may be used, with certain exceptions, and sometimes are used for organized competitive target shooting, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use.

Furthermore, the information we gathered demonstrated that the LCMM rifles are attractive to certain criminals. We identified specific examples of the LCMM rifles’ being used in violent crime and gun trafficking. In addition, we found some disturbing trends involving the LCMM rifles, including a rapid and continuing increase in crime gun trace requests after 1991 and a rapid “time to crime.” Their ability to accept large capacity military magazines likely plays a role in their appeal to these criminals.

After weighing all the information collected, we found that the LCMM rifles are not generally recognized as particularly suitable for or readily adaptable to sporting purposes and are therefore not importable. However, this decision will in no way preclude the importation of true sporting firearms.

³ H. Rep. No. 103-489, at 18-19.

BACKGROUND

Importation of Firearms Under the Gun Control Act

The Gun Control Act of 1968 (GCA)⁴ generally prohibits the importation of firearms into the United States.⁵ However, the GCA creates four narrow categories of firearms that the Secretary of the Treasury shall authorize for importation. The category that is relevant to this study is found at 18 U.S.C. section 925(d)(3).

The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . .

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled. (Emphasis added)

This provision originally was enacted, in a slightly different form, by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968⁶ and also was contained in Title I of the GCA, which amended Title IV later that year.

The GCA was enacted in large part "to assist law enforcement authorities in the States and their subdivisions in combating the increasing prevalence of crime in the United States." However, the Senate Report to the act also made clear that Congress did not intend the GCA to place any undue or unnecessary restrictions or burdens on responsible, law-abiding citizens with respect to acquiring, possessing, transporting, or using firearms for lawful activities.⁷

⁴ Pub. L. No. 90-618.

⁵ 18 U.S.C. section 922(l).

⁶ Pub. L. No. 90-351.

⁷ S. Rep. No. 1501, 90th Cong. 2d Sess. 22 (1968).

Consistent with this general approach, legislative history indicates that Congress intended the importation standard provided in section 925(d)(3) to exclude military-type weapons from importation to prevent such weapons from being used in crime, while allowing the importation of high-quality sporting rifles. According to the Senate Report, section 925(d)(3) was intended to "curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting."⁸ The report goes on to explain that "[t]he importation of certain foreign-made and military surplus nonsporting firearms has an important bearing on the problem which this title is designed to alleviate [crime]. Thus, the import provisions of this title seem entirely justified."⁹ Indeed, during debate on the bill, Senator Dodd, the sponsor of the legislation, stated that "Title IV prohibits importation of arms which the Secretary determines are not suitable for . . . sport The entire intent of the importation section is to get those kinds of weapons that are used by criminals and have no sporting purpose."¹⁰

The Senate Report, however, also makes it clear that the importation standards "are designed and intended to provide for the importation of quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms."¹¹ (The rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.) Similarly, the report states that the importation prohibition "would not interfere with the bringing in of currently produced firearms, such as rifles . . . of recognized quality which are used for hunting and for recreational purposes."¹² The reference to recreational purposes is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting, because firearms particularly suitable for these purposes also can be used for other purposes such as recreational shooting.

During debate on the bill, there was discussion about the meaning of the term "sporting purposes." Senator Dodd stated:

[h]ere again I would have to say that if a military weapon is used in a

⁸ S. Rep. No. 1501, 90th Cong. 2d Sess. 22 (1968).

⁹ S. Rep. No. 1501, 90th Cong. 2d Sess. 24 (1968).

¹⁰ 114 Cong. Rec. S 5556, 5582, 5585 (1968).

¹¹ S. Rep. No. 1501, 90th Cong. 2d. Sess. 38 (1968).

¹² S. Rep. No. 1501, 90th Cong. 2d. Sess. 22 (1968).

special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.¹³

Legislative history also shows that the determination of a weapon's suitability for sporting purposes is the direct responsibility of the Secretary of the Treasury. The Secretary was given this discretion largely because Congress recognized that section 925(d)(3) was a difficult provision to implement. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.¹⁴

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace¹⁵

Section 925(d)(3) provides that the Secretary shall authorize the importation of a firearm if it is of a "type" that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The legislative history also makes it clear that the Secretary shall scrutinize types of firearms in exercising his authority under section 925(d). Specifically, the Senate Report to the GCA states that section 925(d) "gives the

Secretary authority to permit the importation of ammunition and certain types of firearms."¹⁶

¹³ 114 Cong. Rec. 27461-462 (1968).

¹⁴ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁵ S. Rep. No. 1097, 90th Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In Gun South, Inc. v. Brady, F.2d 858, 863 (11th Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

¹⁶ S. Rep. No. 1501, 90th Cong. 2d. Sess. 38 (1968).

The Senate Report to the GCA also recommended that the Secretary establish a council that would provide him with guidance and assistance in determining which firearms meet the criteria for importation into the United States.¹⁷ Accordingly, following the enactment of the GCA, the Secretary established the Firearms Evaluation Panel (FEP) (also known as the Firearms Advisory Panel) to provide guidelines for implementation of the "sporting purposes" test. This panel was composed of representatives from the military, the law enforcement community, and the firearms industry. At the initial meeting of the FEP, it was understood that the panel's role would be advisory only.¹⁸ The panel focused its attention on handguns and recommended the adoption of factoring criteria to evaluate the various types of handguns. These factoring criteria are based upon such considerations as overall length of the firearm, caliber, safety features, and frame construction. ATF thereafter developed an evaluation sheet (ATF Form 4590) that was put into use for evaluating handguns pursuant to section 925(d)(3). (See exhibit 4.)

The FEP did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms, which Congress addressed separately, the rifles and shotguns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Therefore, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns.

1984 Application of the Sporting Purposes Test

The first time that ATF undertook a meaningful analysis of rifles or shotguns under the sporting purposes test was in 1984. At that time, ATF was faced with a new breed of imported shotgun, and it became clear that the historical assumption that all shotguns were sporting was no longer viable. Specifically, ATF was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes. This shotgun is a military/law enforcement weapon initially designed and manufactured in South Africa for riot control. When the importer was asked to submit evidence of the weapon's sporting purposes, it provided information that the weapon was suitable for police/combat-style competitions. ATF determined that this type of competition did not constitute a sporting purpose

under the statute, and that the shotgun was not suitable for the traditional shotgun sports of hunting, and trap and skeet shooting.

¹⁷ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁸ Gilbert Equipment Co. v. Higgins, 709 F. Supp. 1071, 1083, n. 7 (S.D. Ala. 1989), aff'd without op., 894 F.2d 412 (11th Cir. 1990).

1986 Firearms Owners Protection Act

On May 19, 1986, Congress passed the Firearms Owners Protection Act,¹⁹ which amended section 925(d)(3) to provide that the Secretary "shall" (instead of "may") authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The Senate Report to the law stated "it is anticipated that in the vast majority of cases, [the substitution of 'shall' for 'may' in the authorization section] will not result in any change in current practices."²⁰ As the courts have found, "[r]egardless of the changes made [by the 1986 law], the firearm must meet the sporting purposes test and it remains the Secretary's obligation to determine whether specific firearms satisfy this test."²¹

1986 Application of the Sporting Purposes Test

In 1986, ATF again had to determine whether a shotgun met the sporting purposes test, when the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). Again, ATF refused to recognize police/combat-style competitions as a sporting purpose. After examining and testing the weapon, ATF determined its weight, size, bulk, designed magazine capacity, configuration, and other factors prevented it from being classified as particularly suitable for or readily adaptable to the traditional shotgun sports of hunting, and trap and skeet shooting. Accordingly, its importation was denied.

When this decision was challenged in Federal court, ATF argued, in part, that large magazine capacity and rapid reloading ability are military features. The court accepted this argument, finding "the overall appearance and design of the weapon (especially the detachable box magazine . . .) is that of a combat weapon and not a sporting weapon."²² In reaching this decision, the court was not persuaded by the importer's argument that box magazines can be lengthened or shortened depending on desired shell capacity.²³ The court also agreed with ATF's conclusion that police/combat-style competitions were not considered sporting purposes.

¹⁹ Pub. L. No. 99-308.

²⁰ S. Rep. No. 98-583, 98th Cong. 1st Sess. 27 (1984).

²¹ Gilbert Equipment Co., 709 F. Supp. at 1083.

²² Id. at 1089.

²³ Id. at 1087, n. 20 and 1089.

1989 Report on the Importability of Semiautomatic Assault Rifles

In 1989, after five children were killed in a California schoolyard by a gunman with a semiautomatic copy of an AK47, ATF decided to reexamine whether certain semiautomatic assault-type rifles met the sporting purposes test. This decision was reached after consultation with the Director of the Office of National Drug Control Policy.

In March and April 1989, ATF announced that it was suspending the importation of certain "assault-type rifles." For the purposes of this suspension, assault-type rifles were those rifles that generally met the following criteria: (1) military appearance; (2) large magazine capacity; and (3) semiautomatic version of a machinegun. An ATF working group was established to reevaluate the importability of these assault-type rifles. On July 6, 1989, the group issued its Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles (hereinafter 1989 report).

In the 1989 report, the working group first discussed whether the assault-type rifles under review fell within a "type" of firearm for the purposes of section 925(d)(3). The working group concluded that most of the assault-type rifles under review represented "a distinctive type of rifle [which it called the "semiautomatic assault rifle"] distinguished by certain general characteristics which are common to the modern military assault rifle."²⁴ The working group explained that the modern military assault rifle is a weapon designed for killing or disabling the enemy and has characteristics designed to accomplish this purpose. Moreover, it found that these characteristics distinguish modern military assault rifles from traditional sporting rifles.

The characteristics of the modern military assault rifle that the working group identified were as follows: (1) military configuration (which included: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights) (see exhibit 5 for a thorough discussion of each of these features); (2) ability to fire automatically (i.e., as a machinegun); and (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.²⁵ In regards to the ability to accept a detachable magazine, the working group explained that:

[v]irtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable

²⁴ 1989 report at 6.

²⁵ 1989 report at 6.

magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.²⁶

The working group emphasized that these characteristics had to be looked at as a whole to determine whether the overall configuration of each of the assault-type rifles under review placed the rifle fairly within the semiautomatic assault rifle type. The semiautomatic assault rifles shared all the above military assault rifle characteristics other than being machineguns.²⁷

The working group also addressed the scope of the term "sporting purposes." It concluded that the term should be given a narrow interpretation that focuses on the traditional sports of hunting and organized competitive target shooting. The working group made this determination by looking to the statute, its legislative history, applicable case law, the work of the FEP, and prior interpretations by ATF. In addition, the working group found that the reference to sporting purposes was intended to stand in contrast to military and law enforcement applications. Consequently, it determined that police/combat-type competitions should not be treated as sporting activities.²⁸

The working group then evaluated whether the semiautomatic assault rifle type of firearm is generally recognized as particularly suitable for or readily adaptable to traditional sporting applications. This examination took into account technical and marketing data, expert opinions, the recommended uses of the firearms, and information on the actual uses for which the weapons are employed in this country. The working group, however, did not consider criminal use as a factor in its analysis of the importability of this type of firearm.

After analyzing this information, the working group concluded that semiautomatic assault rifles are not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, the working group concluded that semiautomatic assault rifles should not be authorized for importation under section 925(d)(3). However, the working group found that some of the assault-type rifles under review (the Valmet Hunter and .22 rimfire caliber rifles), did not fall within the semiautomatic assault rifle type. In the case of the Valmet Hunter, the working group found that although it was based on the operating mechanism of the AK47 assault rifle, it had been substantially

²⁶ 1989 report at 6 (footnote omitted).

²⁷ The semiautomatic assault rifles were semiautomatic versions of machineguns.

²⁸ 1989 report at 9-11.

changed so that it was similar to a traditional sporting rifle.²⁹ Specifically, it did not have any of the military configuration features identified by the working group, except for the ability to accept a detachable magazine.

Following the 1989 study, ATF took the position that a semiautomatic rifle with any of the eight military configuration features identified in the 1989 report, other than the ability to accept a detachable magazine, failed the sporting purposes test and, therefore, was not importable.

Gun South, Inc. v. Brady

Concurrent with its work on the 1989 report, ATF was involved in litigation with Gun South, Inc. (GSI). In October 1988 and February 1989, ATF had granted GSI permits to import AUG-SA rifles. As mentioned previously, in March and April of 1989, ATF imposed a temporary suspension on the importation of rifles being reviewed in the 1989 study, which included the AUG-SA rifle. GSI filed suit in Federal court, seeking to prohibit the Government from interfering with the delivery of firearms imported under permits issued prior to the temporary suspension.

The court of appeals found that the Government had the authority to suspend temporarily the importation of GSI's AUG-SA rifles because the GCA "impliedly authorizes" such action.³⁰ In addition, the court rejected GSI's contention that the suspension was arbitrary and capricious because the AUG-SA rifle had not physically changed, explaining the argument "places too much emphasis on the rifle's structure for determining whether a firearm falls within the sporting purpose exception. While the Bureau must consider the rifle's physical structure, the [GCA] requires the Bureau to equally consider the rifle's use."³¹ In addition, the court found that ATF adequately had considered sufficient evidence before imposing the temporary suspension, citing evidence ATF had considered

demonstrating that semiautomatic assault-type rifles were being used with increasing frequency in crime.³²

²⁹ This finding reflects the fact that the operating mechanism of the AK47 assault rifle is similar to the operating mechanism used in many traditional sporting rifles.

³⁰ Gun South, Inc. v. Brady, 877 F.2d 858 (11th Cir. 1989). The court of appeals issued its ruling just days before the 1989 report was issued. However, the report was complete before the ruling was issued.

³¹ Id.

³² Id.

Although GSI sued ATF on the temporary suspension of its import permits, once the 1989 report was issued, no one pursued a lawsuit challenging ATF's determination that the semiautomatic assault rifles banned from importation did not meet the sporting purposes test.³³

Violent Crime Control and Law Enforcement Act of 1994

On September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994,³⁴ which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons as defined by the statute.³⁵ The statute defined semiautomatic assault weapons to include 19 named models of firearms (or copies or duplicates of the firearms in any caliber),³⁶ semiauto-matic rifles that have the ability to accept detachable magazines and have at least two of five features specified in the law; semiautomatic pistols that have the ability to accept detachable magazines and have at least two of five features specified in the law; and semiautomatic shotguns that have at least two of four features specified in the law.³⁷ However, Congress

³³ After the 1989 report was issued, Mitchell Arms, Inc. asserted takings claims against the Government based upon the suspension and revocation of four permits allowing for the importation of semiautomatic assault rifles and ATF's temporary moratorium on import permits for other rifles. The court found for the Government, holding the injury complained of was not redressable as a taking because Mitchell Arms did not hold a property interest within the meaning of the Just Compensation Clause of the Fifth Amendment. Mitchell Arms v. United States, 26 Cl. Ct. 1 (1992), aff'd, 7 F.3d 212 (Fed. Cir. 1993), cert. denied, 511 U.S. 1106 (1994).

³⁴ Pub. L. No. 103-22. Title XI, Subtitle A of this act may be cited as the "Public Safety and Recreational Firearms Use Protection Act."

³⁵ 18 U.S.C. section 922(v).

³⁶ Chapter 18 U.S.C. section 921(a)(30)(A) states that the term "semiautomatic assault weapon" means "any of the firearms, or copies or duplicates of the firearms in any caliber, known as -, " followed by a list of named firearms. Even though section 921(a)(3) defines "firearm" as used in chapter 18 to mean, in part, "the frame or receiver of any such weapon," the use of "firearm" in section 921(a)(30)(A) has not been interpreted to mean a frame or receiver of any of the named weapons, except when the frame or receiver actually is incorporated in one of the named weapons.

Any other interpretation would be contrary to Congress' intent in enacting the assault weapon ban. In the House Report to the assault weapon ban, Congress emphasized that the ban was to be interpreted narrowly. For example, the report explained that the present bill was more tightly focused than earlier drafts which gave ATF authority to ban any weapon which "embodies the same configuration" as the named list of guns in section 921(a)(30)(A); instead, the present bill "contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons [beyond the listed weapons]." H. Rep. 103-489 at 21.

³⁷ 18 U.S.C. section 921(a)(30).

exempted from the assault weapon ban any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition and any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.³⁸

Although the 1994 law was not directly addressing the sporting purposes test in section 925(d)(3), section 925(d)(3) had a strong influence on the law's content. The technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law. The House Report to the 1994 law explained that although the legal question of whether semiautomatic assault weapons met section 925(d)(3)'s sporting purposes test "is not directly posed by [the 1994 law], the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features."³⁹ As in the 1989 study, Congress focused on the external features of firearms, rather than on their semiautomatic operating mechanism.

The 1994 law also made it unlawful to possess and transfer large capacity ammunition feeding devices manufactured after September 13, 1994.⁴⁰ A large capacity ammunition feeding device was generally defined as a magazine, belt, drum, feed strip, or similar device that has the capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.⁴¹

Congress passed these provisions of the 1994 law in response to the use of semiautomatic assault weapons and large capacity ammunition feeding devices in crime. Congress had been presented with much evidence demonstrating that these weapons were "the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder."⁴² The House Report to the 1994 law recounts numerous crimes that had occurred involving semiautomatic assault weapons and large capacity magazines that were originally designed and produced for military assault rifles.⁴³

³⁸ 18 U.S.C. sections 922(v)(3)(C)&(D).

³⁹ H. Rep. No. 103-489, at 17, n. 19.

⁴⁰ 18 U.S.C. section 922(w).

⁴¹ 18 U.S.C. section 921(a)(31).

⁴² H. Rep. No. 103-489, at 13.

⁴³ H. Rep. No. 103-489, at 14-15.

In enacting the semiautomatic assault weapon and large capacity ammunition feeding device bans, Congress emphasized that it was not preventing the possession of sporting firearms. The House Report, for example, stated that the bill differed from earlier bills in that "it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns."⁴⁴ In addition, Congress specifically exempted 661 long guns from the assault weapon ban which are "most commonly used in hunting and recreational sports."⁴⁵

Both the 1994 law and its legislative history demonstrate that Congress recognized that ammunition capacity is a factor in determining whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. Moreover, the House Report specifically states that the ability to accept a large capacity magazine was a military configuration feature which was not "merely cosmetic," but "serve[d] specific, combat-functional ends."⁴⁶ The House Report also explains that, while "[m]ost of the weapons covered by the [ban] come equipped with magazines that hold 30 rounds [and can be replaced with magazines that hold 50 or even 100 rounds], . . . [i]n contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5."⁴⁷

Finally, it must be emphasized that the semiautomatic assault weapon ban of section 922(v) is distinct from the sporting purposes test governing imports of section 925(d)(3). Clearly, any weapon banned under section 922(v) cannot be imported into the United States because its possession in the United States would be illegal. However, it is possible that a weapon not defined as a semiautomatic assault weapon under section 922(v) still would not be importable under section 925(d)(3). In order to be importable, the firearm must be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes regardless of its categorization under section 922(v). The

Secretary's discretion under section 925(d)(3) remains intact for all weapons not banned by the 1994 statute.

The Present Review

Prior to the November 14, 1997, decision to conduct this review, certain members of

⁴⁴ H. Rep. No. 103-489, at 21.

⁴⁵ H. Rep. No. 103-489, at 20. None of these 661 guns are study rifles.

⁴⁶ H. Rep. No. 103-489, at 18.

⁴⁷ H. Rep. No. 103-489, at 19 (footnote omitted).

Congress strongly urged that it was necessary to review the manner in which the Treasury Department is applying the sporting purposes test to the study rifles, in order to ensure that the present practice is consistent with section 925(d)(3) and current patterns of gun use. The fact that it had been nearly 10 years since the last comprehensive review of the importation of rifles (with many new rifles being developed during this time) also contributed to the decision to conduct this review.

DEFINING THE TYPE OF WEAPON UNDER REVIEW

Section 925 (d) (3) provides that the Secretary shall authorize the importation of a firearm if it is of a “type” that meets the sporting purposes test. Given this statutory mandate, we had to determine whether the study rifles suspended from importation fell within one type of firearm. Our review of the study rifles demonstrated that all were derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found to be importable when certain military features were removed.

Within this group, we determined that virtually all of the study rifles shared another important feature: The ability to accept a detachable large capacity magazine (e.g., more than 10 rounds) that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi. (This is the only military configuration feature cited in the 1989 study that remains with any of the study rifles).

We determined that all of the study rifles that shared both of these characteristics fell within a type of firearm which, for the purposes of this report, we call “large capacity military magazine rifles” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308--which is based on the AK47 design--does not fall within this type because it does not have the ability to accept a large capacity military magazine.

SCOPE OF "SPORTING PURPOSES"

As in the 1989 study, we had to determine the scope of "sporting purposes" as used in section 925(d)(3). Looking to the statute, its legislative history, the work of the Firearms Evaluation Panel (see exhibit 6), and prior ATF interpretations, we determined sporting purposes should be given a narrow reading, incorporating only the traditional sports of hunting and organized competitive target shooting (rather than a broader interpretation that could include virtually any lawful activity or competition.)

In terms of the statute itself, the structure of the importation provisions suggests a somewhat narrow interpretation. Firearms are prohibited from importation (section 922(l)), with four specific exceptions (section 925(d)). A broad interpretation permitting a firearm to be imported because someone may wish to use it in some lawful shooting activity would render the general prohibition of section 922(l) meaningless.

Similarly, as discussed in the "Background" section, the legislative history of the GCA indicates that the term sporting purposes narrowly refers to the traditional sports of hunting and organized competitive target shooting. There is nothing in the history to indicate that it was intended to recognize every conceivable type of activity or competition that might employ a firearm.

In addition, the FEP specifically addressed the informal shooting activity of "plinking" (shooting at randomly selected targets such as bottles and cans) and determined that it was not a legitimate sporting purpose under the statute. The panel found that, "while many persons participate in this type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation. . . ." (See exhibit 6.)

Finally, the 1989 report determined that the term sporting purposes should be given a narrow reading incorporating the traditional rifle sports of hunting and organized competitive target shooting. In addition, the report determined that the statute's reference to sporting purposes was intended to stand in contrast with military and law enforcement applications. This is consistent with ATF's interpretation in the context of the Striker-12 shotgun and the USAS-12 shotgun. It is also supported by the court's decision in Gilbert Equipment Co. v. Higgins.

We received some comments urging us to find "practical shooting" is a sport for the purposes of section 925(d)(3).⁴⁸ Further, we received information showing that practical shooting is gaining in popularity in the United States and is governed by an organization that has sponsored national events since 1989. It also has an international organization.

While some may consider practical shooting a sport, by its very nature it is closer to police/combat-style competition and is not comparable to the more traditional types of sports, such as hunting and organized competitive target shooting. Therefore, we are not convinced that practical shooting does, in fact, constitute a sporting purpose under section 925(d)(3).⁴⁹ However, even if we were to assume for the sake of argument that practical shooting is a sport for the purposes of the statute, we still would have to decide whether a firearm that could be used in practical shooting meets the sporting purposes test. In other words, it still would need to be determined whether the firearm is of a type that is generally recognized as particularly suitable for or readily adaptable to practical shooting and other sporting purposes.⁵⁰ Moreover, the legislative history makes clear that the use of a military weapon in a practical shooting competition would not make that weapon

⁴⁸ Practical shooting involves moving, identifying, and engaging multiple targets and delivering a number of shots rapidly. In doing this, practical shooting participants test their defensive skills as they encounter props, including walls and barricades, with full or partial targets, "no-shoots," steel reaction targets, movers, and others to challenge them.

⁴⁹ As noted earlier, ATF has taken the position that police/combat-style competitions do not constitute a "sporting purpose." This position was upheld in Gilbert Equipment Co., 709 F. Supp. at 1077.

⁵⁰ Our findings on the use and suitability of the LCMM rifles in practical shooting competitions are contained in the "Suitability for Sporting Purposes" section of this report.

sporting: “if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event.”⁵¹ While none of the LCMM rifles are military weapons, they still retain the military feature of the ability to accept a large capacity military magazine.

⁵¹ 114 Cong. Rec. 27461-462 (1968) (Sen. Dodd).

METHOD OF STUDY

As explained in the “Executive Summary” section of this report, the purpose of this study is to review whether modified semiautomatic assault rifles are properly importable under 18 U.S.C. section 925(d)(3). More specifically, we reexamined the conclusions of the 1989 report as applied today to determine whether we are correct to allow importation of the study rifles that have been modified by having certain military features removed. To determine whether such rifles are generally recognized as particularly suitable for or readily adaptable to sporting purposes, the Secretary must consider both the physical features of the rifles and the actual uses of the rifles.⁵² Because it appears that all of the study rifles that have been imported to date have the ability to accept a large capacity military magazine,⁵³ all of the information collected on the study rifles’ physical features and actual uses applies only to the LCMM rifles.

Physical features:

The discussion of the LCMM rifles’ physical features are contained in the “Suitability for Sporting Purposes” section of this report.

Use:

We collected relevant information on the use of the LCMM rifles. Although the 1989 study did not consider the criminal use of firearms in its importability analysis, legislative history demonstrates and the courts have found that criminal use is a factor that can be considered in determining whether a firearm meets the requirements of section 925(d)(3).⁵⁴ Accordingly, we decided to consider the criminal use of the LCMM rifles in the present analysis.

The term “generally recognized” in section 925(d)(3) indicates that the Secretary should base his evaluation of whether a firearm is of a type that is particularly suitable for or readily adaptable to sporting purposes, in part, on a “community standard” of the firearm’s use.⁵⁵ The community standard “may change over time even though the firearm remains the same. Thus, a changing pattern of use may significantly affect whether a firearm is generally recognized as particularly suitable for or readily adaptable to a sporting purpose.”⁵⁶ Therefore, to assist the Secretary in determining whether the LCMM rifles presently are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes, we gathered information from the relevant “community.” The relevant community was defined as persons and groups who are

⁵² Gun South, Inc., 877 F.2d at 866.

⁵³ The VEPR caliber .308 discussed on page 16 has not yet been imported.

⁵⁴ 114 Cong. Rec. S 5556, 5582, 5585 (1968)(“[t]he entire intent of the importation section [of the sporting purposes test] is to get those kinds of weapons that are used by criminals and have no sporting purposes”) (Sen. Dodd); Gun South, Inc., 877 F.2d at 866.

⁵⁵ Gun South, Inc., 877 F.2d at 866.

⁵⁶ Id.

knowledgeable about the uses of these firearms or have relevant information about whether these firearms are particularly suitable for sporting purposes. We identified more than 2,000 persons or groups we believed would be able to provide relevant, factual information on these issues. The individuals and groups were selected to obtain a broad range of perspectives on the issues. We conducted surveys to obtain specific information from hunting guides, editors of hunting and shooting magazines, organized competitive shooting groups, State game commissions, and law enforcement agencies and organizations. Additionally, we asked industry members, trade associations, and various interest and information groups to provide relevant information.⁵⁷ A detailed presentation of the surveys and responses is included as an appendix to this report.

We also reviewed numerous advertisements and publications, both those submitted by the editors of hunting and shooting magazines and those collected internally, in our search for material discussing the uses of the LCMM rifles. Further, we collected importation data, tracing data, and case studies.⁵⁸

Our findings on use are contained in the “Suitability for Sporting Purposes” section of this report.

⁵⁷ **Hunting guides:** Guides were asked about specific types of firearms used by their clients. The guides were an easily definable group, versus the entire universe of hunters. We obtained the names of the hunting guides surveyed from the States.

Editors of hunting and shooting magazines: Editors were surveyed to determine whether they recommended the LCMM rifles for hunting or organized competitive target shooting and whether they had written any articles on the subject. The list of editors we surveyed was obtained from a directory of firearms-related organizations.

Organized competitive shooting groups: Organized groups were asked whether they sponsored competitive events with high-power semiautomatic rifles and whether the LCMM rifles were allowed in those competitions. We felt it was significant to query those who are involved with organized events rather than unofficial activities with no specific rules or guidelines. As with the editors above, the list of groups was obtained from a directory of firearms-related organizations.

State game commissions: State officials were surveyed to determine whether the use of the LCMM rifles was prohibited or restricted for hunting in each State.

Law enforcement agencies and organizations: Specific national organizations and a sampling of 26 police departments across the country were contacted about their knowledge of the LCMM rifles' use in crime. The national organizations were surveyed with the intent that they would gather input from the wide range of law enforcement agencies that they represent or that they would have access to national studies on the subject.

Industry members and trade associations: These groups were included because of their knowledge on the issue.

Interest and information groups: These organizations were included because of their wide range of perspectives on the issue.

⁵⁸ To assist us with our review of the crime-related information we collected, we obtained the services of Garen J. Wintemute, MD, M.P.H. Director of the Violence Prevention Research Program, University of California, Davis, and Anthony A. Braga, Ph.D., J.F.K. School of Government, Harvard University.

SUITABILITY FOR SPORTING PURPOSES

The next step in our review was to evaluate whether the LCMM rifles, as a type, are generally recognized as particularly suitable for or readily adaptable to hunting and organized competitive target shooting.⁵⁹ The standard applied in making this determination is high. It requires more than a showing that the LCMM rifles may be used or even are sometimes used for hunting and organized competitive target shooting; if this were the standard, the statute would be meaningless. Rather, the standard requires a showing that the LCMM rifles are especially suitable for use in hunting and organized competitive target shooting.

As discussed in the “Method of Study” section, we considered both the physical features of the LCMM rifles and the actual uses of the LCMM rifles in making this determination.

Physical Features

The ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi.

Although the LCMM rifles have been stripped of many of their military features, they all still have the ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 and 93, SIG SG550, or Uzi; in other words, they still have a feature that was designed for killing or disabling an enemy. As the 1989 report explains:

Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional

⁵⁹ One commenter suggests that the Secretary has been improperly applying the “readily adaptable to sporting purposes” provision of the statute. Historically, the Secretary has considered the “particularly suitable for or readily adaptable to” provisions as one standard. The broader interpretation urged by the commenter would make the standard virtually unenforceable. If the Secretary allowed the importation of a firearm which is readily adaptable to sporting purposes, without requiring it actually to be adapted prior to importation, the Secretary would have no control over whether the adaptation actually would occur following the importation.

semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.⁶⁰

Thus, the 1989 report found the ability to accept a detachable large capacity magazine originally designed and produced for a military assault rifle was a military, not a sporting, feature. Nevertheless, in 1989 it was decided that the ability to accept such a large capacity magazine, in the absence of other military configuration features, would not be viewed as disqualifying for the purposes of the sporting purposes test. However, several important developments, which are discussed below, have led us to reevaluate the weight that should be given to the ability to accept a detachable large capacity military magazine in the sporting purposes test.

Most significantly, we must reevaluate the significance of this military feature because of a major amendment that was made to the GCA since the 1989 report was issued. In 1994, as discussed in the “Background” section of this report, Congress passed a ban on large capacity ammunition feeding devices and semiautomatic assault weapons.⁶¹ In enacting these bans, Congress made it clear that it was not preventing the possession of sporting firearms.⁶² Although the 1994 law was not directly addressing the sporting purposes test, section 925(d)(3) had a strong influence on the law's content. As discussed previously, the technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law.

Both the 1994 law and its legislative history demonstrate that Congress found that ammunition capacity is a factor in whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. In other words, Congress found magazine capacity to be such an important factor that a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition will not be banned, even if it contains all five of the assault

⁶⁰ 1989 report at 6 (footnote omitted). This was not the first time that ATF considered magazine capacity to be a relevant factor in deciding whether a firearm met the sporting purposes test. See Gilbert Equipment Co., 709 F. Supp. at 1089 (“the overall appearance and design of the weapon (especially the detachable box magazine . . .) is that of a combat weapon and not a sporting weapon.”)

⁶¹ The ban on large capacity ammunition feeding devices does not include any such device manufactured on or before September 13, 1994. Accordingly, there are vast numbers of large capacity magazines originally designed and produced for military assault weapons that are legal to transfer and possess (“grandfathered” large capacity military magazines). Presently these grandfathered large capacity military magazines fit the LCMM rifles.

⁶² See, for example, H. Rep. No. 103-489, at 21.

weapon features listed in the law. Moreover, unlike the assault weapon ban in which a detachable magazine and at least two physical features are required to ban a rifle, a large capacity magazine in and of itself is banned.

In addition, the House Report specifically states that the ability to accept a large capacity magazine is a military configuration characteristic that is not "merely cosmetic," but "serve[s] specific, combat-functional ends."⁶³ The House Report also explains that large capacity magazines

make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent. Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. . . . In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5.⁶⁴

Congress specifically exempted 661 long guns from the assault weapon ban that are "most commonly used in hunting and recreational sports."⁶⁵ The vast majority of these long guns do not use large capacity magazines. Although a small number of the exempted long guns have the ability to accept large capacity magazines, only four of these exempted long guns were designed to accept large capacity military magazines.⁶⁶

The 1994 law also demonstrates Congress' concern about the role large capacity magazines and firearms with the ability to accept these large capacity magazines play in

⁶³ H. Rep. No. 103-489, at 18.

⁶⁴ H. Rep. No. 103-489, at 19 (footnote omitted). The fact that 12 States place a limit on the magazine capacity allowed for hunting, usually 5 or 6 rounds, is consistent with this analysis. (See exhibit 7).

⁶⁵ H. Rep. 103-489, at 20.

⁶⁶ These four firearms are the Iver Johnson M-1 carbine, the Iver Johnson 50th Anniversary M-1 carbine, the Ruger Mini-14 autoloading rifle (without folding stock), and the Ruger Mini Thirty rifle. All of these weapons are manufactured in the United States and are not the subject of this study. In this regard, it should also be noted that Congress can distinguish between domestic firearms and foreign firearms and impose different requirements on the importation of firearms. For example, Congress may ban the importation of certain firearms although similar firearms may be produced domestically. See, for example, B-West Imports v. United States, 75 F.3d 633 (Fed. Cir. 1996).

crime. The House Report for the bill makes reference to numerous crimes involving these magazines and weapons, including the following:⁶⁷

The 1989 Stockton, California, schoolyard shooting in which a gunman with a semiautomatic copy of an AK47 and 75-round magazines fired 106 rounds in less than 2 minutes. Five children were killed and twenty-nine adults and children were injured.

The 1993 shooting in a San Francisco, California, office building in which a gunman using 2 TEC DC9 assault pistols with 50-round magazines killed 8 people and wounded 6 others.

A 1993 shooting on the Long Island Railroad that killed 6 people and wounded 19 others. The gunman had a Ruger semiautomatic pistol, which he reloaded several times with 15-round magazines, firing between 30 to 50 rounds before he was overpowered.

The House Report also includes testimony from a representative of a national police officers' organization, which reflects the congressional concern with criminals' access to firearms that can quickly expel large amounts of ammunition:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before [re]loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, is just no match against a criminal armed with a semiautomatic assault weapon.⁶⁸

Accordingly, by passing the 1994 law, Congress signaled that firearms with the ability to accept detachable large capacity magazines are not particularly suitable for sporting purposes. Although in 1989 we found the ability to accept a detachable large capacity military magazine was a military configuration feature, we must give it more weight, given this clear signal from Congress.

The passage of the 1994 ban on large capacity magazines has had another effect. Under the 1994 ban, it generally is unlawful to transfer or possess a large capacity magazine

⁶⁷ H. Rep. No. 103-489, at 15 (two of these examples involve handguns).

⁶⁸ H. Rep. 103-489, at 13-14 (footnote omitted).

manufactured after September 13, 1994. Therefore, if we require the LCMM rifles to be modified so that they do not accept a large capacity military magazine in order to be importable, a person will not be able to acquire a newly manufactured large capacity magazine to fit the modified rifle. Thus, the modified rifle neither will be able to accept a grandfathered large capacity military magazine, nor can a new large capacity magazine be manufactured to fit it. Accordingly, today, making the ability to accept a large capacity military magazine disqualifying for importation will prevent the importation of firearms which have the ability to expel large amounts of ammunition quickly without reloading.

This was not the case in 1989 or prior to the 1994 ban.

It is important to note that even though Congress reduced the supply of large capacity military magazines by passing the 1994 ban, there are still vast numbers of grandfathered large capacity military magazines available that can be legally possessed and transferred. These magazines currently fit in the LCMM rifles. Therefore, the 1994 law did not eliminate the need to take further measures to prevent firearms imported into the United States from having the ability to accept large capacity military magazines, a nonsporting factor.

Another impetus for reevaluating the existing standard is the development of modified weapons. The 1989 report caused 43 different models of semiautomatic assault rifles to be banned from being imported into the United States. The effect of that determination was that nearly all semiautomatic rifles with the ability to accept detachable large capacity military magazines were denied importation. Accordingly, at the time, there was no need for the ability to accept such a magazine to be a determining factor in the sporting purposes test. This is no longer the case. As discussed earlier, manufacturers have modified the semiautomatic assault rifles disallowed from importation in 1989 by removing all of their military configuration features, except for the ability to accept a detachable magazine. As a result, semiautomatic rifles with the ability to accept detachable large capacity military magazines (and therefore quickly expel large amounts of ammunition) legally have been entering the United States in significant numbers. Accordingly, the development of these modified weapons necessitates reevaluating our existing standards.

Thus, in order to address Congress' concern with firearms that have the ability to expel large amounts of ammunition quickly, particularly in light of the resumption of these weapons coming into the United States, the ability to accept a detachable large capacity military magazine must be given greater weight in the sporting purposes analysis of the LCMM rifles than it presently receives.⁶⁹

⁶⁹ A firearm that can be easily modified to accept a detachable large capacity military magazine with only minor adjustments to the firearm or the magazine is considered to be a firearm with the ability to accept these magazines. The ROMAK4 is an example of such a firearm: With minor modifications to either the

Derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found importable when certain military features were removed.

All rifles that failed to meet the sporting purposes test in 1989 were found to represent a distinctive type of rifle distinguished by certain general characteristics that are common to the modern military assault rifle. Although the LCMM rifles are based on rifle designs excluded from importation under the 1989 standard, they all were approved for import when certain military features were removed. However, the LCMM rifles all still maintain some characteristics common to the modern military assault rifle. Because the outward appearance of most of the LCMM rifles continues to resemble the military assault rifles from which they are derived, we have examined the issue of outward appearance carefully.

Some might prefer the rugged, utilitarian look of these rifles to more traditional sporting guns. Others might recoil from using these rifles for sport because of their nontraditional appearance. In the end, we concluded that appearance alone does not affect the LCMM rifles' suitability for sporting purposes. Available information leads us to believe that the determining factor for their use in crime is the ability to accept a detachable large capacity military magazine.

Use

In the 1989 study, ATF found that all rifles fairly typed as semiautomatic assault rifles should be treated the same. Accordingly, the report stated "[t]he fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type."⁷⁰ We adopt the same approach for the present study.

Use for hunting:

The information we collected on the actual use of the LCMM rifles for hunting medium or larger game suggests that, with certain exceptions, the LCMM rifles sometimes are used for hunting; however, their actual use in hunting is limited.⁷¹ In fact, there are some

firearm or a large capacity magazine that was originally designed and produced for a semiautomatic assault rifle based on the AK47 design, the ROMAK4 has the ability to accept the magazine.

⁷⁰ 1989 report at 11.

⁷¹ We targeted the surveys toward the hunting of medium and larger game (e.g., turkey and deer) because the LCMM rifles chamber centerfire cartridges and therefore likely would be most suitable for hunting this type of game. We also learned that the LCMM rifles were used to shoot certain varmints (e.g., coyotes and groundhogs), which are generally considered to be pests, not game. Many commented that the LCMM

general restrictions and prohibitions on the use of any semiautomatic rifle for hunting game. Almost half of the States place restrictions on the use of semiautomatic rifles in hunting, mostly involving magazine capacity (5-6 rounds) and what can be hunted with the rifles (see exhibit 7).

Of the 198 hunting guides who responded to our survey, only 26 stated that they had clients who used the LCMM rifles on hunting trips during the past 2 hunting seasons and only 10 indicated that they recommend the LCMM rifles for hunting. In contrast, the vast majority of the guides (152) indicated that none of their clients used the LCMM rifles on hunting trips during the past 2 hunting seasons. In addition, the hunting guides indicated that the most common semiautomatic rifles used by their clients were those made by Browning and Remington.⁷² We found significant the comments of the hunting guides indicating that the LCMM rifles were not widely used for hunting.

Of the 13 editors of hunting and shooting magazines who responded to our survey, only 2 stated that their publications recommend specific types of centerfire semiautomatic rifles for use in hunting medium or larger game. These two respondents stated that they recommend all rifles that are safe and of appropriate caliber for hunting, including the LCMM rifles. However, they did not recommend the LCMM rifles based on the Uzi design for hunting big game; these rifles use a 9mm cartridge, which is not an appropriate caliber for this type of game, according to the editors. It is important to note that the LCMM rifles use different cartridges. The LCMM rifles based on the FN-FAL, SIG SG550, and HK91 and 93 designs are chambered for either the .308 Winchester cartridge or the .223 Remington cartridge, depending on the specific model; the LCMM rifles based on the Uzi design are chambered for the 9mm Parabellum cartridge; and the majority of the LCMM rifles based on the AK47 design are chambered for the 7.62 x 39mm cartridge (some are chambered for the .223 Remington cartridge).

Of the five interest and information groups that responded to our survey, three supported the use of the LCMM rifles for hunting. However, one of these groups stated that the

rifles were particularly useful on farms and ranches because of their ruggedness, utilitarian design, and reliability.

⁷² According to a 1996 study conducted for the Fish and Wildlife Service, only 2 percent of big game hunters surveyed used licensed hunting guides. Therefore, it should be noted that the information provided by the guides we surveyed may not be representative of all hunters. However, we believe that the hunting guides' information is reliable and instructive because of their high degree of experience with and knowledge of hunting.

ammunition used by the LCMM rifle models based on the Uzi design were inadequate for shooting at long distances (i.e., more than 100 yards).

Out of the 70 published articles reviewed from various shooting magazines, only 5 contained relevant information. One of these five articles stated that, in the appropriate calibers, the LCMM rifles could make “excellent” hunting rifles. Two of the articles stated that the 7.62 x 39mm cartridge (used in LCMM rifles based on the AK47 design) could be an effective hunting cartridge. One of the articles that recommended the rifles also recommended modifications needed to improve their performance in hunting. None of the articles suggested that LCMM rifles based on the Uzi design were good hunting rifles. Thus, although the LCMM rifles could be used in hunting, the articles provided limited recommendations for their use as hunting weapons.

In their usage guides, ammunition manufacturers recommend the .308 and the 7.62 x 39mm cartridges (used in LCMM rifles based on the FN-FAL and HK 91 designs, and the AK47 design respectively) for medium game hunting. However, the usage guides do not identify the 9mm cartridge (used in the Uzi design rifles) as being suitable for hunting.

A majority of the importers who provided information said that the LCMM rifles they import are used for hunting deer and similar animals. However, they provided little evidence that the rifles were especially suitable for hunting these animals. Two of the importers who responded also provided input from citizens in the form of letters supporting this position. The letters show a wide variety of uses for the LCMM rifles, including deer hunting, plinking, target shooting, home defense, and competitive shooting.

Our review of all of this information indicates that while these rifles are used for hunting medium and larger game, as well as for shooting varmints, the evidence was not persuasive that there was widespread use for hunting. We did not find any evidence that the ability to accept a large capacity military magazine serves any hunting purpose. Traditional hunting rifles have much smaller magazine capabilities. Furthermore, the mere fact that the LCMM rifles are used for hunting does not mean that they are particularly suitable for hunting or meet the test for importation.

Use for organized competitive target shooting:

Of the 31 competitive shooting groups we surveyed that stated they have events using high-power semiautomatic rifles, 18 groups stated that they permit the use of the LCMM rifles for all competitions. However, 13 respondents stated that they restrict or prohibit the LCMM rifles for some competitions, and one group stated that it prohibits the LCMM

rifles for all competitions. These restrictions and prohibitions generally were enacted for the following reasons:

1. High-power rifle competitions generally require accuracy at ranges beyond the capabilities of the 9mm cartridge, which is used by the LCMM rifles based on the Uzi design.
2. The models based on the AK47 design are limited to competitions of 200 yards or less because the 7.62 x 39mm cartridge, which is used by these models, generally has an effective range only between 300 and 500 yards.
3. Certain matches require U.S. military service rifles, and none of the LCMM rifles fall into this category.

The LCMM rifles are permitted in all United States Practical Shooting Association (USPSA) rifle competitions. The USPSA Practical Shooting Handbook, Glossary of Terms, states that “[y]ou can use any safe firearm meeting the minimum caliber (9mm/.38) and power factor (125PF) requirements.” The USPSA has stated that “rifles with designs based on the AR15, AK47, FN-FAL, HK91, HK93, and others are allowed and must be used to be competitive.” Moreover, we received some information indicating that the LCMM rifles actually are used in practical shooting competitions.⁷³ However, we did not receive any information demonstrating that an LCMM rifle’s ability to accept large capacity military magazines was necessary for its use in practical shooting competitions.

A couple of the interest groups recommended the LCMM rifles for organized competitive target shooting.

None of the 70 published articles read mentioned the use of the LCMM rifles in organized competitive target shooting.

All of the major ammunition manufacturers produce .308 Winchester ammunition (which is used in the LCMM rifle models based on the HK 91 and FN-FAL designs) and .223 Remington ammunition (which is used in the HK 93, the SIG SG550, and some of the study rifle models based on the AK47 design) specifically for competitive shooting for rifles. The major manufacturers and advertisers of 9mm ammunition (which is used in the LCMM rifles based on the Uzi design) identify it as being suitable for pistol target shooting and self-defense.

⁷³ Merely because a rifle is used in a sporting competition, the rifle does not become a sporting rifle. 114 Cong. Rec. 27461-462 (1968).

A majority of the importers who provided information stated that the LCMM rifles they import are permitted in and suitable for organized competitive target shooting. Two of the importers who responded also provided input from citizens in the form of letters and petitions supporting this position. However, the importers provided little evidence that the rifles were especially suitable for organized competitive target shooting.

The information collected on the actual use of the LCMM rifles for organized competitive target shooting suggests that, with certain exceptions, the LCMM rifles usually may be used and sometimes are used for organized competitive target shooting; however, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use. The use of the rifles in competitive target shooting appears more widespread than for hunting and their use for practical shooting was the most significant. Although we are not convinced that practical shooting does in fact constitute a sporting purpose under section 925(d), we note that there was no information demonstrating that rifles with the ability to accept detachable large capacity military magazines were necessary for use in practical shooting. Once again, the presence of this military feature on LCMM rifles suggests that they are not generally recognized as particularly suitable for or readily adaptable to sporting purposes.

Use in crime:

To fully understand how the LCMM rifles are used, we also examined information available to us on their use in crime. Some disturbing trends can be identified, and it is clear the LCMM rifles are attractive to criminals.

The use of LCMM rifles in violent crime and firearms trafficking is reflected in the cases cited below. It should be noted that the vast majority of LCMM rifles imported during the period 1991-1997 were AK47 variants, which explains their prevalence in the cited cases.

North Philadelphia, Pennsylvania

From April 1995 to November 1996, a convicted felon used a straw purchaser to acquire at least 55 rifles, including a number of MAK90s. The rifles were then trafficked by the prohibited subject to individuals in areas known for their high crime rates. In one case, the rifles were sold from the parking lot of a local elementary school.

Oakland, California

On July 8, 1995, a 32-year-old Oakland police officer assisted a fellow officer with a vehicle stop in a residential area. As the first officer searched the rear compartment of the stopped vehicle, a subject from a nearby residence used a Norinco model NMH 90 to shoot the 32-year old officer in the back. The officer later died from the wound.

El Paso, Texas

On April 15, 1996, after receiving information from the National Tracing Center, ATF initiated an undercover investigation of a suspected firearms trafficker who had purchased 326 MAK90 semiautomatic rifles during a 6-month period. The individual was found to be responsible for illegally diverting more than 1,000 firearms over the past several years. One of the MAK90 rifles that the subject had purchased was recovered from the scene of a 1996 shootout in Guadalajara, Mexico, between suspected drug traffickers and Mexican authorities. Another MAK90 was recovered in 1997 from the residence of a former Mexican drug kingpin following his arrest for drug-related activities.

Charlotte, North Carolina

On May 24, 1996, four armed subjects—one with a MAK90 rifle—carried out a home invasion robbery during which they killed the resident with a 9mm pistol. All four suspects were arrested.

Dallas, Texas

In September 1997, an investigation was initiated on individuals distributing crack cocaine from a federally subsidized housing community. During repeated undercover purchases of the narcotics, law enforcement officials noticed that the suspects had firearms in their possession. A search warrant resulted in the seizure of crack cocaine, a shotgun, and a North China Industries model 320 rifle.

Chesterfield, Virginia

In November 1997, a MAK90 rifle was used to kill two individuals and wound three others at a party in Chesterfield, Virginia.

Orange, California

In December 1997, a man armed with an AKS 762 rifle and two other guns drove to where he was previously employed and opened fire on former coworkers, killing four and injuring three, including a police officer.

Baltimore, Maryland

In December 1997, a search warrant was served on a homicide suspect who was armed at the time with three pistols and a MAK90 rifle.

We also studied import and trace information to learn whether the LCMM rifles are used in crime.

Between 1991 and 1997, there were 425,114 LCMM rifles imported into the United States. This represents 7.6 percent of the approximately 5 million rifles imported during this period. The breakdown of the specific variants of LCMM rifles imported follows:

AK-47 variants:	377,934
FN-FAL variants:	37,534
HK variants:	6,495
Uzi variants:	3,141
SIG SG550 variants:	10

During this same time period, ATF traced 632,802 firearms.⁷⁴ This included 81,842 rifles of which approximately 3,176 were LCMM rifles.⁷⁵ While this number is relatively low compared to the number of total traces, it must be viewed in light of the small number of LCMM rifles imported during this time period and the total number of rifles, both imported domestic, that were available in the United States. A more significant trend is reflected in figure 1.

⁷⁴ ATF traces crime guns recovered and submitted by law enforcement officials. A crime gun is defined, for purposes of firearms tracing, as any firearm that is illegally possessed, used in a crime, or suspected by law enforcement of being used in a crime. Trace information is used to establish links between criminals and firearms, to investigate illegal firearm trafficking, and to identify patterns of crime gun traces by jurisdiction. A substantial number of firearms used in crime are not recovered by law enforcement agencies and therefore not traced. In addition, not all recovered crime guns are traced. Therefore, trace requests substantially underestimate the number of firearms involved in crimes, and trace numbers contain unknown statistical biases. These problems are being reduced as more law enforcement agencies institute policies of comprehensive crime gun tracing.

⁷⁵ The vast majority of LCMM rifles traced during this time period were AK47 variants. Specifically, AK47 variants comprised 95.6 percent of the LCMM rifles traced. This must be viewed within the context that 88 percent of the LCMM rifles imported during this period were AK47 variants.

Firearms Traces 1991-1997

Year	Total Firearms Traced	Total Rifles Traced	Total Assault ⁷⁶ Rifles Traced	Total LCMM Rifles Traced
1991	42,442	6,196	656	7
1992	45,134	6,659	663	39
1993	54,945	7,690	852	182
1994	83,137	9,201	735	596
1995	76,847	9,988	717	528
1996	136,062	17,475	1,075	800
1997	194,235	24,633	1,518	1,024
Cumulative Total	632,802	81,842	6,216	3,176

Figure 1

The figures in this table show that between 1991 and 1994, trace requests involving LCMM rifles increased rapidly, from 7 to 596. During the same period, trace requests for assault rifles increased at a slower rate, from 656 to 735. The years 1991 to 1994 are significant because they cover a period between when the ban on the importation of semiautomatic assault rifles was imposed and before the September 13, 1994, ban on semiautomatic assault weapons was enacted. Thus, during the years leading up to the 1994 ban, traces of LCMM rifles were increasing much more rapidly than the traces of the rifles that had been the focus of the 1989 ban, as well as the rifles that were the focus of the 1994 congressional action.

We also compared patterns of importation with trace requests to assess the association of LCMM rifles with criminal involvement. The comparison shows that importation of LCMM rifles in the early 1990s was followed immediately by a rapid rise in the number of trace requests involving LCMM rifles. This is shown in figures 2 and 3.

⁷⁶ For purposes of this table, assault rifles include (1) semiautomatic assault rifles banned from importation in 1989 but still available domestically because they had been imported into the United States prior to the ban, (2) domestically produced rifles that would not have qualified for importation after 1989, and (3) semiautomatic assault rifles that were banned in 1994.

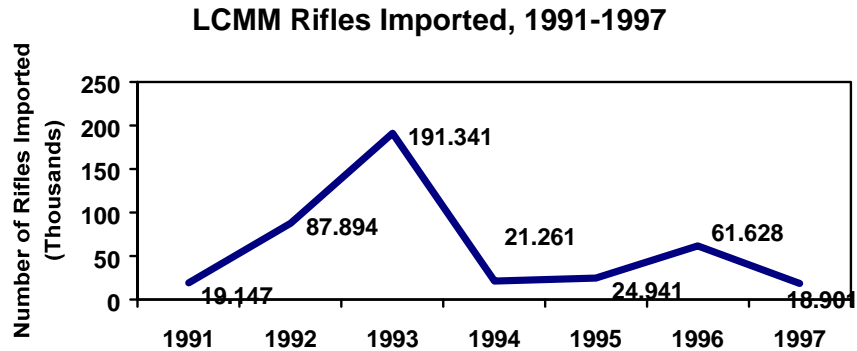


Figure 2

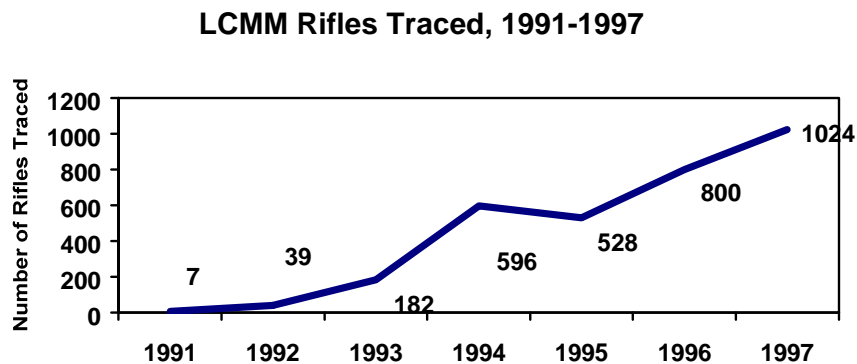


Figure 3

Two aspects of the relationship between importation and trace request patterns are significant. First, the rapid rise in traces following importation indicates that, at least in some cases, very little time elapsed between a particular LCMM rifle's importation and its recovery by law enforcement. This time lapse is known as "time to crime." A short time to crime can be an indicator of illegal trafficking. Therefore, trace patterns suggest what the case examples show: LCMM rifles have been associated with illegal trafficking. Second, while LCMM rifles have not been imported in large numbers since 1994,⁷⁷ the number of trace requests for LCMM rifles continues to rise. This reflects a sustained and

⁷⁷ One reason is that there has been an embargo on the importation of firearms from China since May 1994.

continuing pattern of criminal association for LCMM rifles despite the fact that there were fewer new LCMM rifles available.⁷⁸ Moreover, it is reasonable to conclude that if the importation of LCMM rifles resumes, the new rifles would contribute to the continuing rise in trace requests for them.⁷⁹

All of the LCMM rifles have the ability to accept a detachable large capacity military magazine. Thus, they all have the ability to expend large amounts of ammunition quickly. In passing the 1994 ban on semiautomatic assault rifles and large capacity ammunition feeding devices, Congress found that weapons with this ability are attractive to criminals.⁸⁰ Thus, we can infer that the LCMM rifles may be attractive to criminals because in some ways they remain akin to military assault rifles, particularly in their ability to accept a detachable large capacity military magazine.

⁷⁸ The increase in trace requests also reflects the fact that law enforcement officials were making trace requests for all types of firearms much more frequently beginning in 1996. There were 76,847 trace requests in 1995, 136,062 trace requests in 1996, and 194,235 trace requests in 1997. Traces for assault rifles were increasing by approximately the same percentage as traces for LCMM rifles during these years.

⁷⁹ In addition to looking at case studies and tracing and import information, we attempted to get information on the use of the LCMM rifles in crime by surveying national law enforcement agencies and organizations, as well as metropolitan police departments. Twenty-three national law enforcement agencies and organizations were surveyed and five responded. Three of the respondents stated they had no information. The other two provided information that was either outdated or not specific enough to identify the LCMM rifles.

The 26 metropolitan police departments surveyed provided the following information:

- 17 departments had no information to provide.
- 5 departments stated that the LCMM rifles were viewed as crime guns.
- 1 department stated that the LCMM rifles were nonporting.
- 2 departments stated that the LCMM rifles were used to hunt coyotes in their areas.
- 1 department stated that the LCMM rifles were used for silhouette target shooting.

⁸⁰ H. Rep. No. 103-489, at 13, 18, 19.

DETERMINATION

In 1989, ATF determined that the type of rifle defined as a semiautomatic assault rifle was not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, ATF found that semiautomatic assault rifles were not importable into the United States. This finding was based, in large part, on ATF's determination that semiautomatic assault rifles contain certain general characteristics that are common to the modern military assault rifle. These characteristics were designed for killing and disabling the enemy and distinguish the rifles from traditional sporting rifles. One of these characteristics is a military configuration, which incorporates eight physical features: Ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF decided that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic assault rifle not importable.

Certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features, except for the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still have the ability to accept a detachable magazine but, more specifically, still have the ability to accept a large capacity military magazine. It appears that only one of the current study rifles, the VEPR caliber .308 (an AK47 variant), does not have the ability to accept a large capacity military magazine and, therefore, is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found not to fall within the semiautomatic assault rifle type and were found to meet the sporting purposes test. Accordingly, these rifles were approved for import into the United States.

Members of Congress and others have expressed concerns that these modified semiautomatic assault rifles are essentially the same as the semiautomatic assault rifles determined to be not importable in 1989. In response to such concerns, the present study reviewed the current application of the sporting purposes test to the study rifles to determine whether the statute is being applied correctly and to ensure that the current use of the study rifles is consistent with the statute's criteria for importability.

Our review took another look at the entire matter. We reexamined the basic tenets of the 1989 study, conducted a new analysis of the physical features of the rifles, surveyed a wide variety of sources to acquire updated information relating to use and suitability, and assessed changes in law that might have bearing on the treatment of the study rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military

configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. The House Report to the 1994 law emphasizes that the ability to accept a large capacity magazine “serve[s] specific, combat-functional ends.”⁸¹ Moreover, this ability plays a role in increasing a firearm’s “capability for lethality,” creating “more wounds, more serious, in more victims.”⁸² Furthermore, the House Report noted semiautomatic assault weapons with this ability are the “weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.”⁸³

Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. The House Report to the 1994 law notes that, while most of the weapons covered by the assault weapon ban come equipped with detachable large capacity magazines, hunting rifles and shotguns typically have much smaller magazine capabilities, from 3 to 5 rounds.⁸⁴ Similarly, we found that a number of States limit magazine capacity for hunting to 5 to 6 rounds. We simply found no information showing that the ability to accept a detachable large capacity military magazine has any purpose in hunting or organized competitive target shooting.

Accordingly, we find that the ability to accept a detachable large capacity military magazine is a critical factor in the sporting purposes test that must be given the same weight as the other military configuration features identified in 1989.

The information we collected on the use and suitability of the LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our study found that the LCMM rifles, as a type, may sometimes be used for hunting, we found no evidence that they are commonly used for hunting. In fact, some of the rifles are unsuitable for certain types of hunting.

⁸¹ H. Rep. No. 103-489, at 18.

⁸² H. Rep. No. 103-489, at 19.

⁸³ H. Rep. No. 103-489, at 13.

⁸⁴ H. Rep. No. 103-489, at 19 (footnote omitted).

The information we collected also demonstrated that although the LCMM rifles, as a type, may be used for organized competitive target shooting, their suitability for these competitions is limited. There are even some restrictions or prohibitions on their use for certain types of competitions. In addition, we believe that all rifles which are fairly typed as LCMM rifles should be treated the same. Therefore, the fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of LCMM rifles as a whole should govern each rifle within this type. The findings as a whole simply did not satisfy the standard set forth in section 925(d)(3).

Finally, the information we gathered demonstrates that the LCMM rifles are attractive to certain criminals. We find that the LCMM rifles' ability to accept a detachable large capacity military magazine likely plays a role in their appeal to these criminals. In enacting the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress recognized the appeal large magazine capacity has to the criminal element.

Weighing all this information, the LCMM rifles, as a type, are not generally recognized as particularly suitable for or readily adaptable to sporting purposes. As ATF found in conducting its 1989 study, although some of the issues we confronted were difficult to resolve, in the end we believe the ultimate conclusion is clear and compelling. The ability of all of the LCMM rifles to accept a detachable large capacity military magazine gives them the capability to expel large amounts of ammunition quickly; this serves a function in combat and crime, but serves no sporting purpose. Given the high standard set forth in section 925(d)(3) and the Secretary's discretion in applying the sporting purposes test, this conclusion was clear.

This decision will in no way preclude the importation of true sporting firearms. It will prevent only the importation of firearms that cannot fairly be characterized as sporting rifles.

Individual importers with existing permits for, and applications to import involving, the LCMM rifles will be notified of this determination in writing. Each of these importers will be given an opportunity to respond and present additional information and arguments. Final action will be taken on permits and applications only after an affected importer has an opportunity to make its case.

Exhibit 1

THE WHITE HOUSE
WASHINGTON

November 14, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic
Assault-Type Rifles

The Gun Control Act of 1968 restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable to sporting purposes. In 1989, the Department of the Treasury (the Department) conducted a review of existing criteria for applying the statutory test based on changing patterns of gun use. As a result of that review, 43 assault-type rifles were specifically banned from importation. However, manufacturers have modified many of those weapons banned in 1989 to remove certain military features without changing their essential operational mechanism. Examples of such weapons are the Galil and the Uzi.

In recent weeks, Members of Congress have strongly urged that it is again necessary to review the manner in which the Department is applying the sporting purposes test, in order to ensure that the agency's practice is consistent with the statute and current patterns of gun use. A letter signed by 30 Senators strongly urged that modified assault-type weapons are not properly importable under the statute and that I should use my authority to suspend temporarily their importation while the Department conducts an intensive, expedited review. A recent letter from Senator Dianne Feinstein emphasized again that weapons of this type are designed not for sporting purposes but for the commission of crime. In addition, 34 Members of the House of Representatives signed a letter to Israeli Prime Minister Binyamin Netanyahu requesting that he intervene to stop all sales of Galils and Uzis into the United States. These concerns have caused the Government of Israel to announce a temporary moratorium on the exportation of Galils and Uzis so that the United States can review the importability of these weapons under the Gun Control Act.

Def. Exhibit 21
Page 001030

The number of weapons at issue underscores the potential threat to the public health and safety that necessitates immediate action. Firearms importers have obtained permits to import nearly 600,000 modified assault-type rifles. In addition, there are pending before the Department applications to import more than 1 million additional such weapons. The number of rifles covered by outstanding permits is comparable to that which existed in 1989 when the Bush Administration temporarily suspended import permits for assault-type rifles. The number of weapons for which permits for importation are being sought through pending applications is approximately 10 times greater than in 1989. The number of such firearms for which import applications have been filed has skyrocketed from 10,000 on October 9, 1997, to more than 1 million today.

My Administration is committed to enforcing the statutory restrictions on importation of firearms that do not meet the sporting purposes test. It is necessary that we ensure that the statute is being correctly applied and that the current use of these modified weapons is consistent with the statute's criteria for importability. This review should be conducted at once on an expedited basis. The review is directed to weapons such as the Uzi and Galil that failed to meet the sporting purposes test in 1989, but were later found importable when certain military features were removed. The results of this review should be applied to all pending and future applications.

The existence of outstanding permits for nearly 600,000 modified assault-type rifles threatens to defeat the purpose of the expedited review unless, as in 1989, the Department temporarily suspends such permits. Importers typically obtain authorization to import firearms in far greater numbers than are actually imported into the United States. However, gun importers could effectively negate the impact of any Department determination by simply importing weapons to the maximum amount allowed by their permits. The public health and safety require that the only firearms allowed into the United States are those that meet the criteria of the statute.

Accordingly, as we discussed, you will:

- 1) Conduct an immediate expedited review not to exceed 120 days in length to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test. The results of this review will govern action on pending and future applications for import permits, which shall not be acted upon until the completion of this review.

Exhibit 1

3

2) Suspend outstanding permits for importation of modified semiautomatic assault-type rifles for the duration of the 120-day review period. The temporary suspension does not constitute a permanent revocation of any license. Permits will be revoked only if and to the extent that you determine that a particular weapon does not satisfy the statutory test for importation, and only after an affected importer has an opportunity to make its case to the Department.

William J. Christie

Exhibit 2

STUDY RIFLE MODELS

AK47 Variants:

MAK90*	SA2000
314*	ARM
56V*	MISR
89*	MISTR
EXP56A*	SA85M
SLG74	Mini PSL
NHM90*	ROMAK 1
NHM90-2*	ROMAK 2
NHM91*	ROMAK 4
SA85M	Hunter rifle
SA93	386S
A93	PS/K
AKS 762	VEPR caliber
VEPR	7.62 x 39mm
caliber .308	

FN-FAL Variants:

Saiga rifle	L1A1 Sporter
Galil Sporter	FAL Sporter
Haddar	FZSA
Haddar II	SAR4800
WUM 1	X FAL
WUM 2	C3
SLR95	C3A
SLR96	LAR Sporter
SLR97	
SLG94	
SLG95	
SLG96	

HK Variants:

BT96
Centurian 2000
SR9
PSG1
MSG90
G3SA
SAR8

Uzi Variants:

Officers 9*
320 carbine*
Uzi Sporter

SIG SG550 Variants:

SG550-1
SG550-2

- These models were manufactured in China and have not been imported since the 1994 embargo on the importation of firearms from China.

Exhibit 3

STUDY RIFLES

The study rifles are semiautomatic firearms based on the AK47, FN-FAL, HK 91 and 93, Uzi, and SIG SG550 designs. Each of the study rifles is derived from a semiautomatic assault rifle. The following are some examples of specific study rifle models grouped by design type. In each instance, a semiautomatic assault rifle is shown above the study rifles for comparison.

AK47 Variants



AK47 semiautomatic assault rifle



MISR



ARM



MAK90



WUM 1

Exhibit 3

FN-FAL Variants



FN-FAL semiautomatic assault rifle



L1A1 Sporter



SAR 4800

HK 91 and 93 Variants



HK91 semiautomatic assault rifle



SR9



SAR 8

Exhibit 3

Uzi Variants



Uzi semiautomatic assault rifle



320 carbine

SIG SG550 Variants

The following illustration depicts the configuration of a semiautomatic assault rifle based on the SIG SG550 design. No illustrations of modified semiautomatic versions are available.



SIG SG550 semiautomatic assault rifle

DEPARTMENT OF THE TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS					
FACTORING CRITERIA FOR WEAPONS					
NOTE: The Bureau of Alcohol, Tobacco and Firearms reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.					
PISTOL			REVOLVER		
MODEL:			MODEL:		
PREREQUISITES 1. The pistol must have a positive manually operated safety device. 2. The combined length and height must not be less than 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6"			PREREQUISITES 1. Must pass safety test. 2. Must have overall frame (with conventional grips) length (not diagonal) of 4 1/2" minimum. 3. Must have a barrel length of at least 3".		
INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL	INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL
OVERALL LENGTH			BARREL LENGTH (Muzzle to Cylinder Face)		
FOR EACH 1/4" OVER 6"	1		LESS THAN 4"	0	
FRAME CONSTRUCTION			FOR EACH 1/4" OVER 4"	1/2	
INVESTMENT CAST OR FORGED STEEL	15		FRAME CONSTRUCTION		
INVESTMENT CAST OR FORGED HTS ALLOY	20		INVESTMENT CAST OR FORGED STEEL	15	
WEAPON WEIGHT W/MAGAZINE (Unloaded)			INVESTMENT CAST OR FORGED HTS ALLOY	20	
PER OUNCE	1		WEAPON WEIGHT (Unloaded)		
CALIBER			PER OUNCE	1	
.22 SHORT AND .25 AUTO	0		CALIBER		
.22 LR AND 7.65mm TO .380 AUTO	3		.22 SHORT TO .25 ACP	0	
9mm PARABELLUM AND OVER	10		.22 LR AND .30 TO .38 S&W	3	
SAFETY FEATURES			.38 SPECIAL	4	
LOCKED BREECH MECHANISM	5		.357 MAG AND OVER	5	
LOADED CHAMBER INDICATOR	5		MISCELLANEOUS EQUIPMENT		
GRIP SAFETY	3		ADJUSTABLE TARGET SIGHTS (Drift or Click)	5	
MAGAZINE SAFETY	5		TARGET GRIPS	5	
FIRING PIN BLOCK OR LOCK	10		TARGET HAMMER AND TARGET TRIGGER	5	
MISCELLANEOUS EQUIPMENT			SAFETY TEST		
EXTERNAL HAMMER	2		A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.		
DOUBLE ACTION	10				
DRIFT ADJUSTABLE TARGET SIGHT	5				
CLICK ADJUSTABLE TARGET SIGHT	10				
TARGET GRIPS	5				
TARGET TRIGGER	2				
SCORE ACHIEVED (Qualifying score is 75 points)			SCORE ACHIEVED (Qualifying score is 45 points)		

Def. Exhibit 21
Page 001037

Exhibit 5

MILITARY CONFIGURATION

1. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. Additionally, some States have a limit on the magazine capacity allowed for hunting, usually five or six rounds.
2. Folding/telescoping stock. Many military firearms incorporate folding or telescoping stocks. The main advantage of this item is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded position, yet it cannot be fired nearly as accurately as with an open stock. With respect to possible sporting uses of this feature, the folding stock makes it easier to carry the firearm when hiking or backpacking. However, its predominant advantage is for military purposes, and it is normally not found on the traditional sporting rifle.
3. Pistol grips. The vast majority of military firearms employ a well-defined separate pistol grip that protrudes conspicuously beneath the action of the weapon. In most cases, the “straight line design” of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can be an aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or organized competitive target competitions.
4. Ability to accept a bayonet. A bayonet has distinct military purposes. First, it has a psychological effect on the enemy. Second, it enables soldiers to fight in close quarters with a knife attached to their rifles. No traditional sporting use could be identified for a bayonet.
5. Flash suppressor. A flash suppressor generally serves one or two functions. First, in military firearms it disperses the muzzle flash when the firearm is fired to help conceal the shooter’s position, especially at night. A second purpose of some flash suppressors is to assist in controlling the “muzzle climb” of the rifle, particularly when fired as a fully automatic weapon. From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Flash suppressors that also serve to dampen muzzle climb have a limited benefit in sporting uses by allowing the shooter to reacquire

Exhibit 5

the target for a second shot. However, the barrel of a sporting rifle can be modified by "magna-porting" to achieve the same result. There are also muzzle attachments for sporting firearms to assist in the reduction of muzzle climb. In the case of military-style weapons that have flash suppressors incorporated in their design, the mere removal of the flash suppressor may have an adverse impact on the accuracy of the firearm.

6. Bipods. The majority of military firearms have bipods as an integral part of the firearm or contain specific mounting points to which bipods may be attached. The military utility of the bipod is primarily to provide stability and support for the weapon when fired from the prone position, especially when fired as a fully automatic weapon. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles generally do not come equipped with bipods, nor are they specifically designed to accommodate them. Instead, bipods for sporting firearms are generally designed to attach to a detachable "slingswivel mount" or simply clamp onto the firearm.
7. Grenade launcher. Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the rifle by either screws or clamps. No traditional sporting application could be identified for a grenade launcher.
8. Night sights. Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness. Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally not legal to hunt at night.

Exhibit 6

[This document has been retyped for clarity.]

MEMORANDUM TO FILE

FIREARMS ADVISORY PANEL

The initial meeting of the Firearms Advisory Panel was held in Room 3313, Internal Revenue Building, on December 10, 1968, with all panel members present. Internal Revenue Service personnel in attendance at the meeting were the Director, Alcohol and Tobacco Tax Division, Harold Serr; Chief, Enforcement Branch, Thomas Casey; Chief, Operations Coordination Section, Cecil M. Wolfe, and Firearms Enforcement Officer, Paul Westenberger. Deputy Assistant Commissioner Compliance, Leon Green, visited the meeting several times during the day.

The Director convened the meeting at 10:00 a.m. by welcoming the members and outlining the need for such an advisory body. He then introduced the Commissioner of Internal Revenue, Mr. Sheldon Cohen, to each panel member.

Mr. Cohen spoke to the panel for approximately fifteen minutes. He thanked the members for their willingness to serve on the panel, explained the role of the panel and some of the background which led to the enactment of the Gun Control Act of 1968. Commissioner Cohen explained to the panel members the conflict of interest provisions of regulations pertaining to persons employed by the Federal Government and requested that if any member had any personal interest in any matter that came under discussion or consideration, he should make such interest known and request to be excused during consideration of the matter.

Mr. Seer then explained to the panel the areas in which the Division would seek the advice of the panel and emphasized that the role of the panel would be advisory only, and that it was the responsibility of the Service to make final decisions. He then turned the meeting over to the moderator, Mr. Wolfe.

Mr. Wolfe explained the responsibility of the Service under the import provisions of the Gun Control Act and under the Mutual Security Act. The import provisions were read and discussed.

The panel was asked to assist in defining Asporting purposes \equiv as used in the Act. It was generally agreed that firearms designed and intended for hunting and all types of organized competitive target shooting would fall within the sporting purpose category. A discussion was held on the so-called sport of Aplingking \equiv . It was the consensus that, while many persons

Exhibit 6

participated in the type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation since any firearm that could expel a projectile could be used for this purpose without having any characteristics generally associated with target guns.

The point system that had been developed by the Division and another point system formula suggested and furnished by the Southern Gun Distributors through Attorney Michael Desalle, was explained and demonstrated to the panel by Paul Westenberger. Each panel member was given copies of the formulas and requested to study them and endeavor to develop a formula he believed would be equitable and could be applied to all firearms sought to be imported.

A model BM59 Beretta, 7.62 mm, NATO Caliber Sporter Version Rifle was presented to the panel and their advice sought as to their suitability for sporting purposes. It was the consensus that these rifles do have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of this rifle together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle be authorized for importation. Importation, however, should include the restriction that these weapons must not possess combination flash suppressors/grenade adaptors with outside diameters greater than 20mm (.22 mm is the universal grade adaptor size).

The subject of ammunition was next discussed. Panel members agreed that incendiary and tracer small arms ammunition have no use for sporting purposes. Accordingly, the Internal Revenue Service will not authorize these types of small arms ammunition importation. All other conventional small arms ammunition for pistols, revolvers, rifles and shotguns will be authorized.

The meeting was adjourned at 4:00 p.m.

C.M. Wolfe

Exhibit 7

STATE FISH AND GAME COMMISSION REVIEW

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Alabama	Not for turkey	
Alaska		
Arizona		Not more than five rounds
Arkansas	Not for turkey	
California		
Colorado		Not more than six rounds
Connecticut*	No rifles on public land	
Delaware	No rifles	
Florida		Not more than five rounds
Georgia	Not for turkey	
Hawaii		
Idaho	Not for turkey	
Illinois	Not for deer or turkey	
Indiana*	Not for deer or turkey	
Iowa	Not for deer or turkey No restrictions on coyote or fox	
Kansas		
Kentucky		
Louisiana	Not for turkey	
Maine*	Not for turkey	
Maryland*		

Def. Exhibit 21
Page 001042

EXHIBIT 22
TO THE DECLARATION OF JOHN D. ECHEVERRIA

Man wanted in officer's slaying dies in gunbattle

By RICH McKAY
SENTINEL STAFF WRITER

BEVILLE'S CORNER — A man wanted in the killing of a New Jersey police officer last week was slain during a gunfight Easter morning after a chase b
Hernando

and abdomen, also wounding her partner before fleeing.

Hernando deputies called for backup as they began to pursue Marti and he sped off and shot at them, Bergen County, N.J., prosecutor John L. Molinelli said.

drove northeast on State crossing from Hernando in

ment, Caruthers said. The chase covered about 20 miles, Hernando sheriff's officials said.

When the car stopped about 9:50 a.m., Marti got out with an AK-47 assault rifle and again shot at the deputies, officials said. He was shot several times by deputies, Caruthers said.

Marti was airlifted to a Lakeland hospital where he was pronounced



Violence Policy Center

"Officer Down"

Assault Weapons and the War on Law Enforcement

Rifle attack called officer's nightmare

B6 The Roanoke Times, Sunday, June 17, 2001

Suspect brandished 9 mm 'Uzi-style' weapon, authorities say

Slain officer wanted shift with most action

ACTION FROM 1A

In his application, Cudnik said he wanted to be a police officer because it was "one of the most mentally and physically challenging and emotionally rewarding vocations that I can aspire to."

wanted to work when all the action was happening."

His personnel file showed no commendations. The only reprimand occurred in February 1995 when he was suspended for 60 days for leaving the scene of a three-car accident while off-duty, then failing to report his involvement.

Cudnik grew up in the Garfield Heights area and graduated from Parma Senior High School in 1967. He was the divorced father of three sons: Hilary Jr., 23, a Cleveland firefighter; Michael, 21, a student at the University of Dayton; and Daniel, 20, with the Coast Guard.

Even though he worked the grueling 8 p.m. to 4 a.m. shift in one of the city's toughest neighborhoods, Cudnik was a frequent presence at the bar, which opened at 6 a.m. to serve bacon and eggs to the no-nonsense working man's crowd at the nearby LTV Steel Co. mill.

"He was always here," said

Def. Exhibit 31

Page 001243

The Violence Policy Center (VPC) is a national non-profit educational organization that conducts research and public education on firearms violence and provides information and analysis to policymakers, journalists, grassroots advocates, and the general public. The Center examines the role of firearms in America, analyzes trends and patterns in firearms violence, and works to develop policies to reduce gun-related death and injury.

This report was authored by VPC Legislative Director Kristen Rand and VPC Policy Analyst Marty Langley. It was edited by VPC Publications Coordinator Aimée Stenzel and VPC Executive Director Josh Sugarmann.

This study was funded in part with the support of The David Bohnett Foundation, The California Wellness Foundation, The George Gund Foundation, The Joyce Foundation, The John D. and Catherine T. MacArthur Foundation, and The Streisand Foundation. Past studies released by the VPC include:

- *Firearms Production in America 2002 Edition—A Listing of Firearm Manufacturers in America with Production Histories Broken Out by Firearm Type and Caliber* (March 2003)
- *“Just Like Bird Hunting”—The Threat to Civil Aviation from 50 Caliber Sniper Rifles* (January 2003)
- *When Men Murder Women: An Analysis of 2000 Homicide Data* (October 2002)
- *No Deal: The Drop in Federally Licensed Firearms Dealers in America* (September 2002)
- *Sitting Ducks—The Threat to the Chemical and Refinery Industry from 50 Caliber Sniper Rifles* (August 2002)
- *License to Kill IV: More Guns, More Crime* (June 2002)
- *American Roulette: The Untold Story of Murder-Suicide in the United States* (April 2002)
- *The U.S. Gun Industry and Others Unknown—Evidence Debunking the Gun Industry’s Claim that Osama bin Laden Got His 50 Caliber Sniper Rifles from the U.S. Afghan-Aid Program* (February 2002)
- *“A .22 for Christmas”—How the Gun Industry Designs and Markets Firearms for Children and Youth* (December 2001)
- *Kids in the Line of Fire: Children, Handguns, and Homicide* (November 2001)
- *Unintended Consequences: Pro-Handgun Experts Prove That Handguns Are a Dangerous Choice For Self-Defense* (November 2001)
- *Voting from the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* (October 2001)
- *Shot Full of Holes: Deconstructing John Ashcroft’s Second Amendment* (July 2001)
- *Hispanics and Firearms Violence* (May 2001)
- *Where’d They Get Their Guns?—An Analysis of the Firearms Used in High-Profile Shootings, 1963 to 2001* (April 2001)
- *A Deadly Myth: Women, Handguns, and Self-Defense* (January 2001)
- *Handgun Licensing and Registration: What it Can and Cannot Do* (September 2000)
- *Pocket Rockets: The Gun Industry’s Sale of Increased Killing Power* (July 2000)
- *Gunland USA: A State-by-State Ranking of Gun Shows, Gun Retailers, Machine Guns, and Gun Manufacturers* (June 2000)
- *Guns For Felons: How the NRA Works to Rearm Criminals* (March 2000)
- *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* (May 1999)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)

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Def. Exhibit 31
Page 001244

Introduction

In 1994, Congress passed, and President Clinton signed, a ban on the production of certain semiautomatic assault weapons as well as high-capacity ammunition magazines that hold more than 10 rounds. The law banned specific assault weapons by name and also classified as assault weapons semiautomatic firearms that could accept a detachable ammunition magazine and had two additional assault weapon design characteristics. The law is scheduled to end on September 13, 2004.

This study reveals the gun industry's efforts to evade the 1994 ban and documents the significant threat assault weapons still pose to law enforcement. These facts make clear the need to not only renew, but also *strengthen*, the ban before it expires next year. Legislation will soon be introduced in the U.S. Congress to accomplish this goal. Without action this Congress, the 1994 law will expire in 2004.

Both President Bush and Attorney General Ashcroft have expressed support for the assault weapons ban. President Bush's support for the ban has been longstanding. In October 2000, Bush campaign spokesperson Ray Sullivan told *Salon* magazine that he would expect then-candidate Bush to reauthorize the ban.¹ That position was reiterated by Attorney General John Ashcroft during his confirmation hearings on January 17, 2001, when he stated, "It is my understanding that the president-elect of the United States has indicated his clear support for extending the assault weapon ban, and I would be pleased to move forward that position, and to support that as a policy of this president, and as a policy of the Justice Department."² Most recently, in April of this year, White House spokesperson Scott McClellan told Knight Ridder news service, "The President supports the current law, and he supports reauthorization of the current law."³

This study contains three sections. *Section One: Assault Weapons, the Gun Industry, and Law Enforcement* reveals how the firearms industry has evaded the current ban, and how assault weapons continue to pose a stark threat to America's law enforcement personnel. *Section Two: Law Enforcement Officers Killed in the Line of Duty by Assault Weapons, 1998 Through 2001* is a chart listing the known incidents of police officers killed by assault weapons, including year, state, manufacturer, model of assault weapon, and caliber. *Section Three: Selected Incidents of Law Enforcement Officers Killed in the Line of Duty by Assault Weapons, 1998 Through*

¹ Jake Tapper, "Gore Shoots Blanks on Guns," *Salon*, October 24, 2000.

² "Day 2, Morning Session of a Hearing of the Senate Judiciary Committee," *Federal News Service*, January 17, 2001.

³ Shannon McCaffrey, "In Surprise Move, Bush Backs Renewing Ban on Assault Weapons," *Knight Ridder/Tribune News Services*, April 12, 2003.

2001 offers expanded narratives for 15 of the law enforcement shootings that occurred during this period. Each narrative also includes a representative illustration of the model of assault weapon used in the shooting (each weapon shown is representative of the brand or model of assault weapon and may not be identical to the specific weapon used in the shooting detailed in the narrative).

Section One: Assault Weapons, the Gun Industry, and Law Enforcement

Assault Weapons: A Clear Threat to Law Enforcement

A primary stimulus for the 1994 law was the severe threat that assault weapons pose to law enforcement officers. Police and other law enforcement personnel were some of the first victims of the assault weapon trend that emerged in the 1980s. For example, in October 1984, a San Jose, California, police officer was gunned down with an UZI carbine. In a high-profile shootout in April 1986, two agents from the Federal Bureau of Investigation (FBI) were killed by robbery suspects wielding a Ruger Mini-14 assault rifle. Five other agents were wounded in the gun battle. As high-capacity assault weapons became more commonplace, police routinely complained that they were being outgunned by suspects. As a result, major law enforcement organizations supported passage of the 1994 federal assault weapons ban.

In 1995, the first full year in which the ban was implemented, police continued to be victims of assault weapons. Approximately one in 10 of the 74 law enforcement officers killed in the line of duty in 1995 was slain with a banned assault weapon.⁴

The Gun Industry Evades the Law

Immediately after the 1994 law was enacted, the gun industry moved quickly to make slight, cosmetic design changes in their “post-ban” guns to evade the law, a tactic the industry dubbed “sporterization.” Of the nine assault weapon brand/types listed by manufacturer in the law,⁵ six of the brand/types have been re-marketed in new,

⁴ *Cop Killers: Assault Weapon Attacks on America’s Police*, Violence Policy Center, September 1995.

⁵ The law states, “The term ‘semiautomatic assault weapon’ means— (A) any of the firearms, or copies or duplicates of the firearms in any caliber, known as— (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models); (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta Ar70 (SC-70); (iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR, and

“sporterized” configurations.⁶ In fact, gunmakers openly boast of their ability to circumvent the assault weapons ban. Their success is described in an August 2001 *Gun World* magazine article about the new Vepr II assault rifle, a “sporterized” version of the AK-47:

In spite of assault rifle bans, bans on high capacity magazines, the rantings of the anti-gun media and the rifle’s innate political incorrectness, the Kalashnikov [AK-47], in various forms and guises, has flourished. Today there are probably more models, accessories and parts to choose from than ever before.

Equally blunt was an article in the May 2003 issue of *Gun World* reviewing the LE Tactical Carbine, a post-ban, “sporterized” AR-15 clone:

Strange as it seems, despite the hit U.S. citizens took with the passage of the onerous crime bill of 1994 [which contained the federal assault weapons ban], ARs are far from dead. Stunned momentarily, they sprang back with a vengeance and seem better than ever. Purveyors abound producing post-ban ARs for civilians and pre-ban models for government and law enforcement agencies, and new companies are joining the fray.⁷

Just such a post-ban AR, the Bushmaster XM15 M4 A3 assault rifle, was used by the Washington, DC-area snipers to kill 10 and injure three in October 2002. The Bushmaster is the poster child for the industry’s success at evading the ban. The snipers’ Bushmaster is even marketed as a “Post-Ban Carbine.” [Please see page four for catalog copy.]

The industry’s efforts have been aided by the fact that not all assault weapons are covered by the 1994 ban. For example, assault weapons with more conventional designs, such as the Ruger Mini-14, were not covered by the 1994 law—although gun experts define them as assault weapons. Furthermore, any gun that was legally possessed as of the date the 1994 law took effect may still be legally possessed and

FNC; (vi) SWD —10, M-11/9, and M-12; (vii) Steyr AUG; (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and (ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12....”

⁶ Assault weapons that have not been reintroduced are the Beretta AR70, Street Sweeper and Striker 12 assault shotguns (the latter two guns were re-classified by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as subject to the strict regulations of the National Firearms Act of 1934), and Steyr AUG, although Steyr has begun marketing a new assault weapon—the Vector—that, like the AUG, is of a bullpup design.

⁷ “Rock River’s LE Tactical Carbine,” *Gun World* (May 2003), p. 50.

4 Bushmaster Rifles & Carbines Internet: www.bushmaster.com

Bushmaster XM15 M4 Type 16" Post-Ban Carbine...
M4 Profile Barrel • Mini Y Comp Muzzle Brake • Fixed length BATF Approved Tele-style Stock

A new model from Bushmaster in 2001, this XM15 E2S M4 Type Post-Ban Carbine features a lightweight 14.5" Barrel machined in the distinctive M4 profile with a permanently attached Mini Y Comp muzzle brake. This configuration yields a total barrel length of 16" to comply with Post-Ban regulations. A BATF approved fixed tele-style buttstock is added to complete the military look of this new carbine. The 14.5" barrel is chrome lined in both bore and chamber for maximum longevity and ease of maintenance. The barrel's button rifling, in a 1 x 9" right hand twist, will stabilize a wide range of currently available ammunition with bullet weights up to 69 grains. The M16A2 dual aperture, rear sight system offers both windage and elevation adjustments - elevation is calibrated from 300 to 800 meters. The two different apertures give either a short range, quick target acquisition sight picture or a smaller "peep" aperture for long distance accuracy. The tele-stock style buttstock is pinned and fixed in an "open" position and has been BATF approved for use on Post-Ban manufactured carbines.

As with all other Bushmasters, the forged 7075T6 aircraft quality aluminum receivers are finished in a non-reflective mil. spec. hard anodize for durability, and include all M16A2 design improvements such as cartridge case deflector, last round bolt hold-open and raised ridges for magazine release button protection. A mil. spec. manganese phosphate coating insures complete protection against corrosion or rust on barrel and other exposed steel parts. The M4-16" Carbine is shipped in a lockable, hard plastic case - complete with 10 round magazine, carrying sling, and Operator's Safety and Instruction Manual.

BATF Approved, Fixed Position, Tele-Style Buttstock

M4 Profile Chrome Lined Barrel & Mini Y Comp Muzzle Brake
 (permanently pinned and welded in place)

SPECIFICATIONS: XM15 M4 Type 16" Post-Ban Carbine

Caliber	.223 Rem. (5.56 mm)
Mag. Capacity	Shipped with 10 round (accepts all M16 type)
Overall Length	34.875 inches (88.6 cm)
Barrel Length	16" total w. Mini Y Comp (40.6 cm)
Rifling	R.H. twist; 1 turn in 9"
Weight w/o magazine	6.59 Lbs. (2.99 kg)
Mode of Operation	Gas Operated - Semi-Automatic

Bushmaster XM15 E2S M4 Type 16" Post-Ban Carbine
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The Bushmaster XM15 used by the Washington, DC-area snipers to kill 10 and wound three in October 2002 is the poster child for the gun industry's cynical efforts to circumvent the federal assault weapons ban. Maine-based Bushmaster even advertises the gun—based on the banned Colt AR-15 assault rifle—as a "Post-Ban Carbine."

transferred without restriction. With respect to high-capacity ammunition magazines, manufacturers stockpiled thousands, or perhaps hundreds of thousands, of magazines before the ban took effect. Those magazines—some of which can hold up to 75 rounds of ammunition—are still widely available.

Still a Threat to Police—One in Five Law Enforcement Officers Slain in the Line of Duty is Killed With an Assault Weapon

The gun industry's evasion of the 1994 ban on assault weapons and high-capacity ammunition magazines continues to put law enforcement officers at extreme risk. Using data obtained from the Federal Bureau of Investigation, the Violence Policy Center has determined that ***at least 41 of the 211 law enforcement officers slain in the line of duty between January 1, 1998, and December 31, 2001, were killed with assault weapons.***⁸ ***Using these figures, one in five law enforcement officers slain in the line of duty was killed with an assault weapon.***

While no comprehensive information is yet available for the years 2002 and 2003, it is clear that law enforcement personnel continue to be killed by assault weapons. For example, on February 20, 2003, in Alexandria, Louisiana, two police officers were killed in an ambush with an AK-47-type assault rifle. Anthony Molette, age 25, had a long criminal history, including a charge of attempted first-degree murder. The day before the murders, Molette opened fire on an officer in his patrol car. The officer was not hurt, but 18 to 20 rounds were fired into the vehicle. Molette bragged to his friends about the shooting, prompting Alexandria police to search for him. When officers arrived at Molette's residence to serve a warrant, Molette opened fire, fatally wounding Officers Charles Ezernack, age 26, and Jeremy "Jay" Carruth, age 29. Molette was shot and killed as he charged two other police officers.⁹

The fact that from 1998 through 2001 one in five law enforcement officers slain in the line of duty was killed with an assault weapon indicates that the ban in its current form is inadequate to protect police and the public from the hazards presented by assault weapons.

⁸ The Federal Bureau of Investigation data does not identify the firearm used in some instances, in those cases the type of firearm is listed as "unknown." Therefore, the number of law enforcement officers killed with assault weapons may actually be higher. (This figure does not include the 72 law enforcement deaths that resulted from the events of September 11, 2001. The foreword of the FBI's *Law Enforcement Officers Killed and Assaulted, 2001* states, "Because a catastrophe such as the September 11 attacks falls far outside the normal course of police experience, the FBI has not included those fatalities in the 2001 rate, trend, or disposition tables for to do so would skew the data and render analyses meaningless.") The year 2001 is the most recent year for which complete information is available from the FBI.

⁹ "Police Killings Baffling," *State-Times/Morning Advocate*, February 22, 2003.

According to the Urban Institute's 1997 study of the effects of the 1994 ban,¹⁰ "the relatively high use of assault weapons in murders of police suggests that police gun murders should be more sensitive to the effects of the ban than gun murders of civilians." The stark reality that murders of law enforcement personnel committed with assault weapons have not abated demonstrates the need to not only renew, but significantly strengthen, the current ban.

¹⁰ Roth and Koper, *Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994 Final Report*, Urban Institute, March 13, 1997.

Section Two: Law Enforcement Officers Killed in the Line of Duty by Assault Weapons, 1998 Through 2001

Year	State	Manufacturer	Model	Caliber
1998	Alaska	Colt	AR-15	7.62mm
	Georgia	Iver Johnson	M1 Carbine	.30
	Oregon	Norinco	SKS ¹¹	7.62mm
	New York	Unknown	MAC-11	9mm
	California	Armalite	M151A	.223
	Mississippi	Colt	AR-15	.223
	Mississippi	Colt	AR-15	.223
	Michigan	DPMS, Inc.	AR-15	.223
	Florida	Unknown	SKS	7.62mm
	Colorado	Unknown	SKS	7.62mm
	Texas	Unknown	AR-15	.223
	Texas	Unknown	AR-15	.223
	Missouri	Unknown	MAK 90	7.62mm
	California	Ruger	Mini-14	.223
	Indiana	Norinco	SKS	7.62mm
1999	California	Ferunion/Hungarian Arms	SA85	7.62mm
	Indiana	Norinco	SKS	7.62mm

¹¹ The SKS is not banned by name under the 1994 federal assault weapons ban. Only SKS rifles that were modified to be defined as an assault weapon under Section (B) of the law were affected by the ban. Section (B) defines a "semiautomatic assault weapon" as "a semiautomatic rifle that has an ability to accept a detachable ammunition magazine and has at least 2 of—(i) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon; (iii) a bayonet mount; (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (v) a grenade launcher...." Legislation to be introduced this Congress would explicitly ban any SKS able to accept a detachable ammunition magazine. Unless otherwise stated, the exact configuration of SKS weapons used in police shootings cited in this study cannot be determined.

Year	State	Manufacturer	Model	Caliber
	New Jersey	Intratec	TEC-9	9mm
	Arizona	Unknown	AK-47	7.62mm
	California	Norinco	MAK 90	7.62mm
	Oklahoma	Colt	AR-15 H-BAR	.223
	Texas	Norinco	MAK 90 Sporter	7.62mm
	Texas	Norinco	MAK 90	7.62mm
	Texas	Norinco	MAK 90	7.62mm
	Texas	Norinco	MAK 90	7.62mm
2000	North Carolina	Maadi	ARM	7.62mm
	Georgia	Ruger	AR-15 ¹²	.223
	California	Colt	CAR-15	.223
	Texas	Ruger	Mini-14	.223
	Georgia	Intratec	TEC-9	9mm
	Maryland	Unknown	M1 Carbine	.30
2001	California	Unknown	AR-15	.223
	Florida	SWD, Inc.	M-11	9mm
	Indiana	Unknown	AK-47	7.62mm
	Kentucky	Underwood	M1 Carbine	.30
	Kentucky	Underwood	M1 Carbine	.30
	Michigan	Unknown	SKS	7.62mm
	Tennessee	Maadi	MAK 90	7.62mm
	Texas	Unknown	M-11	9mm
	Texas	Norinco	SKS	7.62mm
	Utah	Norinco	SKS	7.62mm

¹² Inconsistency between manufacturer and weapon type from FBI data.

**Section Three: Selected Incidents of Law Enforcement Officers
Killed in the Line of Duty by Assault Weapons,¹³
1998 Through 2001**

¹³ Each weapon shown is representative of the brand or model of assault weapon and is not a picture of the specific weapon used in the shooting described in the narrative.

Date: January 27, 1998

Location: Portland, Oregon

Assault Weapon: Norinco SKS 7.62mm rifle

On January 27, 1998, one police officer was killed and two were wounded with a Norinco SKS 7.62mm rifle. The officers, working on a drug investigation in Portland, entered the home of Steven Douglas Dons and were met with gunfire. Colleen Waibel, a six-year veteran, was hit with multiple gunshots, becoming the first female officer killed in the line of duty in Portland. Kim Keist, a 15-year veteran, was wounded in the chest and arm despite wearing a bullet-proof vest. A third officer was treated for a gunshot wound to the hand. A neighbor reported that Dons was known to have a large arsenal of weapons and that police had been called to the house weeks before on a complaint of weapons being fired. Dons committed suicide while awaiting trial.

Lauren Dodge, "Three Portland Officers Ambushed at House; One Dead, Two Wounded," *Associated Press*, January 28, 1998; "Victim, Husband Have Mixed Feelings Over Apparent Suicide of Suspect," *The Columbian*, February 26, 1998.

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Date: April 25, 1998

Location: Millbrae, California

Assault Weapon: Armalite M151A .223 rifle

On April 25, 1998, one police officer was killed with an Armalite M151A .223 rifle. Officer David Chetcuti responded to another officer's call for help in a traffic stop on the Millbrae Avenue off-ramp of U.S. 101. Officer Seann Graham had pulled over Marvin Patrick Sullivan for not having a current registration sticker for his vehicle. Sullivan, who was heavily armed and had bombs strapped to his body, opened fire, wounding Officer Chetcuti. Chetcuti returned fire hitting the suspect once in the side before being killed by two shots to the head from close range. Several of the bullets penetrated Chetcuti's bullet-proof vest, and more than 40 bullet casings were recovered at the scene. Officer Graham escaped harm by diving into a drainage ditch. Sullivan was arrested after leading several police cars in a chase across the San Mateo Bridge. Sullivan has been repeatedly declared incompetent to stand trial, and sent to a California state mental hospital.

Tyche Hendricks and Jim Herron Zamora, "Cop Killing: No Fremont Tie," *San Francisco Examiner*, April 27, 1998; "Judge: Man isn't competent; Defendant Sent Back to Hospital in Millbrae Cop Slaying Case," *San Jose Mercury News*, July 23, 2002.



Date: May 29, 1998

Location: Cortez, Colorado

Assault Weapon: SKS 7.62mm rifle

On May 29, 1998, one police officer was killed and two were wounded with an SKS 7.62mm rifle. Officer Dale Claxton stopped a truck that had been reported stolen the day before. As Officer Claxton was checking the stolen truck's license plate, a passenger in the truck fired approximately 40 rounds through the front of Claxton's police cruiser. Montezuma County Sheriff's Deputy Jason Bishop responded to the radio call of an officer being shot, and was wounded as his cruiser was hit with approximately 40 more rounds from the SKS. Minutes later, Deputy Todd Martin was wounded in the left arm and right leg. The three suspects, described by authorities as "anti-government, end-of-the-world-fearing survivalists," escaped into Colorado. Two of the suspects were later found dead, while the third, Jason Wayne McVean, is still at large.

Greg Burton, "Posse Scours Badlands for 3 Cop Killers," *Salt Lake Tribune*, May 31, 1998; Julie Cart, "Answers Vanished Along With Four Corners Outlaw," *Los Angeles Times*, November 24, 1999.



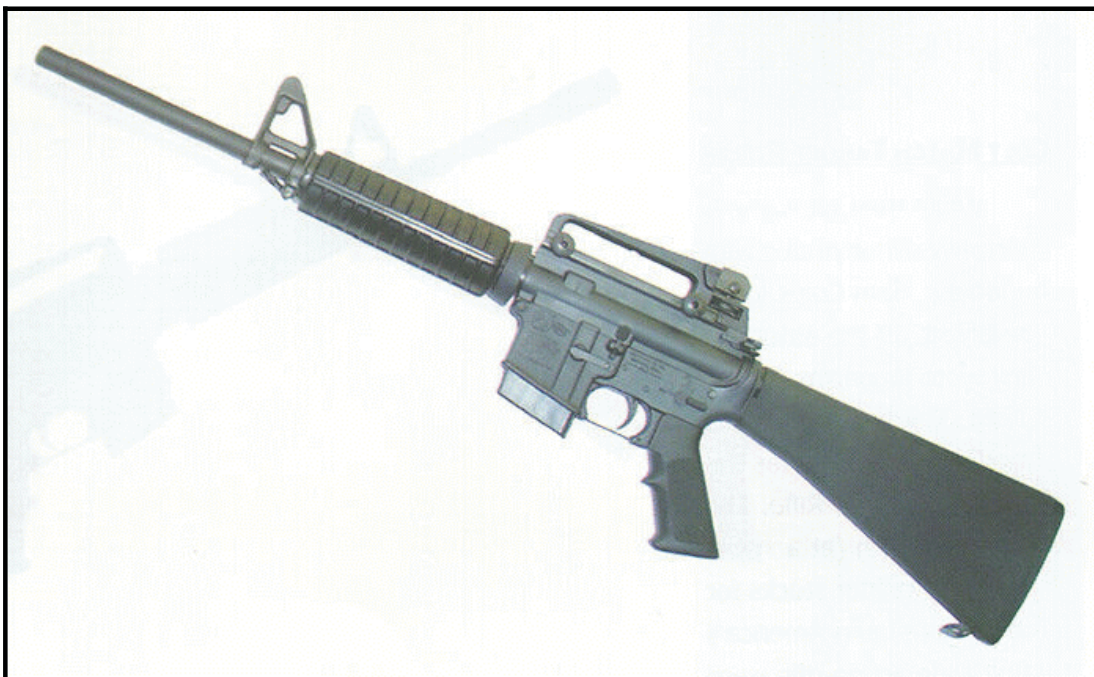
Date: July 7, 1998

Location: San Benito, Texas

Assault Weapon: AR-15 .223 rifle

On July 7, 1998, two U.S. Border Patrol agents were killed with an AR-15 .223 rifle. Ernie Moore, reportedly enraged over a broken love affair, shot and wounded Dan Morin, who had been dating Moore's former girlfriend, and killed Morin's mother and sister. Two hours later, a shootout ensued between Moore and police officers resulting in the death of two Border Patrol agents before Moore was fatally wounded. In addition to a cocaine habit, Moore had a history of emotional problems and displayed Nazi posters and photos of Adolf Hitler in his bedroom.

James Pinkerton, "Two Border Patrol Agents Are Slain During Rampage," *Houston Chronicle*, July 8, 1998; "Assault Rifle Costs Border Town \$35M," *National Law Journal*, March 4, 2002.



Date: November 29, 1998

Location: Los Angeles, California

Assault Weapon: Ruger Mini-14 .223 rifle

On November 29, 1998, Los Angeles Police Department training officer Brian Brown was killed with a Ruger Mini-14 .223 rifle. Brown and his partner witnessed a drive-by shooting in Culver City and attempted to stop the suspects. The gunmen fired multiple rounds from the Mini-14, killing Officer Brown. Police shot and killed one of the suspects near the scene while the other managed to commandeer a taxi, leading police on a five-mile chase before also being fatally wounded.

Anthony Breznican, "Three Dead, Including Police Officer, During Violent Arrest for Drive-By Shooting," *Los Angeles Times*, December 1, 1998.



Date: January 10, 1999

Location: Oakland, California

Assault Weapon: MAK-90 or SA85 7.62mm rifle

On January 10, 1999, Officer James Williams was killed with a MAK-90 or SA85 7.62mm rifle. Officer Williams was among a group of officers who were searching for a rifle that had been discarded by the occupants of a vehicle that was involved in a chase with police. While they were searching for the rifle, a gunman opened fire from a nearby overpass, killing Officer Williams. Chad Rhodes was arrested and charged with special-circumstances murder, attempted murder, three counts of firing an assault weapon, and possessing an assault weapon. Rhodes pleaded guilty to second-degree murder and was sentenced to life in prison without parole.

Henry K. Lee, "Arrest in Oakland Sniper Slaying," *San Francisco Chronicle*, January 12, 1999; Henry K. Lee, "Sniper Suspect Enters Plea of Not Guilty," *San Francisco Chronicle*, February 6, 1999; "Man Pleads Guilty in Killing of Oakland Cop," *San Francisco Chronicle*, April 9, 2003.



Date: April 8, 1999

Location: Orange, New Jersey

Assault Weapon: TEC-9 9mm pistol

On April 8, 1999, Officer Joyce Carnegie was killed with a TEC-9 9mm pistol. Condell Woodson pleaded guilty to felony murder in the death of Officer Carnegie. Woodson claimed that his gun accidentally went off, shooting Carnegie in the head and abdomen as she was attempting to arrest Woodson for armed robbery. Woodson also pleaded guilty to robbery and weapons offenses. Carnegie was the second policewoman killed in the line of duty in New Jersey history.

Amy Westfeldt, "Man Pleads Guilty to Policewoman's Murder," *Associated Press*, May 13, 1999.



Date: June 12, 1999

Location: Orange County, California

Assault Weapon: MAK-90 or SA85 7.62mm rifle

On June 12, 1999, Sheriff's Deputy Brad Riches was killed with a MAK-90 or SA85 7.62mm rifle. Deputy Riches was sitting in his patrol car outside a 7-Eleven when his police cruiser was riddled with assault weapon fire. The 7-Eleven clerk said that a customer told him he was carrying an AK-47-style assault rifle to shoot a police officer. Maurice Steksal was convicted on November 19, 2002 of the first-degree murder of Deputy Riches.

Jack Leonard, "Thousands Pay Last Respects to Slain Deputy," *Los Angeles Times*, June 17, 1999; Greg Hardesty, "Laborer Guilty of Deputy's Murder," *Orange County Register*, November 20, 2002.



Date: January 27, 2000

Location: Lexington, North Carolina

Assault Weapon: Maadi 7.62mm rifle

On January 27, 2000, Sheriff's Deputy Todd Cook was killed with a Maadi 7.62mm rifle. Deputy Cook was serving a warrant at the home of Christopher Lee Cooper who had been accused of trespassing and was also wanted by Lexington police for questioning about a statutory rape. Deputy Cook was shot at least five times from behind. After the shooting, Cooper led police on a car chase that ended when he crashed through a roadblock. Officers found Cooper dead in the car from a self-inflicted gunshot wound.

"Piedmont Community Mourns Loss of Slain Deputy," *Associated Press*, January 29, 2000.



Date: August 3, 2000

Location: San Marcos, Texas

Assault Weapon: Ruger Mini-14 .223 rifle

On August 3, 2000, State Trooper Randall Vetter was killed with a Ruger Mini-14 .223 rifle. Trooper Vetter stopped 72-year-old Melvin Hale for not wearing his seat belt. Hale got out of his car and aimed his rifle at Vetter because he believed the traffic stop violated his constitutional rights. Vetter raised his pistol and ordered him to put down his gun. Hale fired at least twice, hitting Vetter in the head as he sat in his patrol car. Six months earlier, another San Marcos trooper had written a letter warning Hays County law enforcement officers to exercise caution around Hale. The trooper said Hale had threatened him with a rifle when he stopped at Hale's ranch to ask about deer hunting on the 125-acre property. Hale pleaded guilty to the shooting and was sentenced to life in prison.

Jason Spencer, "A Somber Salute for a Fallen Officer," *Austin American-Statesman*, August 9, 2000; "Trooper's Shooter Gets Life Sentence; 74-year-old Accepted Surprise Plea Agreement as Jury Selection Began," *Austin American-Statesman*, January 24, 2002.



Date: March 29, 2001

Location: San Antonio, Texas

Assault Weapon: M-11 assault pistol

On March 29, 2001, San Antonio Police Officer Hector Garza, age 48, was shot and killed while responding to a domestic disturbance report. Jessica Garcia, age 21, had called police to ask for an officer's protection while she moved out of her home. When Garcia's husband, Frank, learned of her plans, he drove home and killed both Jessica and Officer Garza—a 25-year police veteran—by shooting them both in the head with an M-11 assault pistol. Frank Garcia, 28, was arrested at the scene and charged with two counts of capital murder and three counts of attempted murder. Garcia was convicted of the murders in February 2002.

Bill Hendricks, "Cop's Slaying Stuns City," *San Antonio Express-News*, March 30, 2001; "Garcia Gets Death Penalty; Cop Killer Sentenced," *San Antonio Express-News*, February 12, 2002.



Date: April 4, 2001
Location: Detroit, Michigan
Assault Weapon: SKS assault rifle

On April 4, 2001, Detroit Police Officer Neil Wells, age 41, was fatally shot during a drug raid at an abandoned apartment house. While on patrol, Wells and his partner received a complaint of drug sales at the building. When the officers arrived, the gunman was waiting in ambush behind a door. Wells was shot twice at close range with an SKS assault rifle. Lamont Smith, age 21, was charged with murder and felony firearm violations. Smith was convicted of second degree murder and sentenced to 60 to 90 years in prison.

Norman Sinclair, "Gun Owner Sought in Cop's Killing," *The Detroit News*, April 8, 2001; "Man Given 60-90 Years in Cop Killing," *Detroit Free Press*, January 16, 2002.



Date: September 6, 2001

Location: Hamilton County, Tennessee

Assault Weapon: MAK 90 assault rifle

On September 6, 2001, Hamilton County Sheriff's Deputy Donald Bond, age 35, was shot and killed when he stopped at a fruit and vegetable stand to check on a suspicious vehicle. When Deputy Bond did not respond to a 2:18 AM call from his dispatcher, an alert was sent out to locate him. A fellow deputy found Bond dead beside his patrol car, shot multiple times with an MAK 90 assault rifle. Later that morning, acting on a tip, a SWAT team evacuated the suspect's street and waited for a chance to make an arrest. After observing Marlon Duane Kiser, age 31, throw out a front panel of body armor and Deputy Bond's service weapon, police arrested Kiser and charged him with first-degree murder. Kiser is awaiting trial in the case.

Mike O'Neal and Gary Tanner, "Suspect Held in Deputy's Death," *Chattanooga Times Free Press*, September 7, 2001; "Law Enforcement Officers Killed and Assaulted, 2001," Federal Bureau of Investigation; "Courts News Digest," *Chattanooga Times Free Press*, February 18, 2003.



Date: September 17, 2001

Location: Indianapolis, Indiana

Assault Weapon: AK-47 assault rifle

On September 17, 2001, Marion County Sheriff's Deputy Jason Baker, age 24, was killed during a car chase and gun battle. On his way to a report of a domestic dispute, Deputy Baker tried to make a traffic stop. The driver refused to stop and a chase ensued. Allen Dumperth, a convicted felon, and Michael Shannon, both age 20, fired at Baker from their fleeing car. When Baker's fellow officers found him, he was dead from a gunshot wound to the head. The front and rear windows of his patrol car were shot out. After crashing his car, Dumperth was shot and killed by members of the police SWAT team. Shannon later pleaded guilty in court to shooting Deputy Baker.

Vic Ryckaert, "Role in Deputy Death Brings 40 Years; 21-Year-Old Bought the Assault Rifles Used by 2 Men Accused in Slaying of Jason Baker," *Indianapolis Star*, April 11, 2002.



Date: November 13, 2001

Location: Nicholasville, Kentucky

Assault Weapon: M1 Carbine

Jessamine County Sheriff's Deputies Billy Ray Walls, age 28, and Chuck Morgan, age 51, were shot and killed, and another deputy was wounded, when they tried to serve a warrant for misdemeanor terroristic-threatening to Phillip Walker, age 75, on his drydocked houseboat. Walker had threatened to kill a family member with a gun. While in the houseboat with the deputies, Walker fired 11 shots from a 30-caliber M1 Carbine, killing Deputy Walls and fatally injuring Deputy Morgan. Walker was killed in the gun battle.

Greg Kocher, "Man Who Killed Deputy Fired 11 Times Police Say," *Lexington Herald Leader*, November 15, 2001.



About the Violence Policy Center

The Violence Policy Center (VPC) is a national nonprofit educational organization working to reduce death and injury from firearms. As America's premier think tank on gun policy, the VPC studies current firearms issues and provides information to policymakers, journalists, public health professionals, and grassroots activists.

The virtually unrestricted distribution of firearms is more than a crime problem, it is a national health crisis. Unlike every other consumer product, firearms are exempt from federal health and safety laws. Guns—especially handguns and assault weapons—are inherently dangerous products, and the failure to regulate them like all other products costs thousands of lives and billions of dollars every year. By conducting research on key issues in firearms policy, the VPC counters the gun lobby's distortions and brings hard facts to the debate over firearms death and injury.



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Gunshot wounds: A review of ballistics related to penetrating trauma

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ABSTRACT

Civilian gunshot injuries from handgun and rifle ammunition vary in severity depending on the anatomic location involved and the different effects from the ballistic properties of the penetrating projectiles. Ballistic factors such as the impact velocity and energy should not be considered in isolation, as their specific effects are determined by the interaction between the projectile and tissues. Increased tissue damage can result from tumbling of non-deforming rifle bullets and deformation of expanding bullets. Both of these mechanisms increase substantially the energy transfer to the wound and its diameter, also producing a pulsating temporary cavity associated with pressure changes within tissue.

1. Introduction

Since the introduction of the term “wound ballistics”^[1,2] indicating the study of the wounding mechanisms of missiles [3], extensive experimental research on this field has been conducted by investigators with a military background [4–7]. In the context of wound ballistics, the term missile is used to denote various types of small projectiles, such as bullets and fragments, that have enough kinetic energy to penetrate a living target^[8]. Civilian gunshot injuries have been studied to a lesser

extent in connection to ballistic aspects [9–10], with major contributions by two influential forensic scientists, Beat Kneubuehl^[11] in Europe, and Vincent DiMaio^[12] in the US.

Whereas the severity of any penetrating injury is eventually related to the vicinity of the wound track to vital organs and large vessels, the nature of gunshot wounds (GSW) is influenced by the dynamics of the projectile and the local reaction of the penetrated tissue [13–16]. These two aspects reflect the complex projectile–tissue interaction which takes place during the penetration process [14,17,18], accounting for the scientific approach to these injuries both from a physical (ballistic) and biological (“wound”) point of view^[16]. Therefore, a complete understanding of this process requires a basic knowledge of the ballistic factors implicated in tissue wounding. This paper reviews ballistics of GSW inflicted by handgun and rifle ammunition. Shotgun injuries are not included in the

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present discussion as they differ from bullet injuries from a ballistic point of view.

2. Ballistic behavior of the bullet

The common characteristic of all firearms is a tube of variable length called barrel, with a chamber attached that receives the cartridge (the unit of ammunition) containing the bullet, the propellant, and the primer. The bullet is accelerated down the barrel to a final muzzle velocity under the high pressures built up by the expanding gases from the combustion of the propellant [19,20]. During this phase, the bullet attains a simultaneous rotatory movement (spin) as it is engaged by the spiral grooving of the interior of the gun barrel. This is an important feature called rifling, which necessitates that the diameter (caliber) of the bullet matches the internal diameter of the barrel. Since bullets are essentially axisymmetric bodies designed to afford the minimum area of presentation combined with the maximum possible mass, the spin is necessary for appropriate orientation of the bullet during flight with its tip (nose) pointing forward [2].

Projectiles are customarily classified as “low-” or “high-velocity”, roughly corresponding to the two main categories of small arms, handguns and rifles [4,21]. While low velocity is generally considered synonymous to subsonic (less than 350 m/s) [4,21], the high velocity range is less well defined. In the context of wound ballistics, high velocity is considered to start approximately at 600–700 m/s, above which “explosive effects” are commonly seen [4]. Medium or intermediate velocities (350–600 m/s) [4] are achieved by more powerful handguns, such as those using Magnum ammunition [21].

The nose contour and the mass of the bullet are important for the maintenance of its velocity and energy during flight [22]. Based on the measurements published in ballistic tables [23], the muzzle energy is considered to decrease significantly beyond 45 m for most handgun bullets, and beyond 100 m for rifle bullets [21]. Unfortunately, most civilian GSW are inflicted from an average of 10 m [24].

Modern military (assault) rifles launch their projectiles at 700–960 m/s. Military rifle bullets have a slender streamlined profile with a so-called spitzer (pointed) nose

(Figure 1), which improves their ballistic performance at the supersonic velocity range. With the exception of the newest lead-free designs, these bullets have the typical composition of a lead (“soft”) core protected against friction from the barrel by a shell (“jacket”) of harder metal such as a copper alloy or plated steel, which completely covers the lead core at the nose (but remains open at the base for manufacturing purposes) in order to prevent deformation during soft tissue penetration, a construction designated as full metal-jacketed (FMJ) [13,20,25]. FMJ handgun bullets have round or flat nose.



Figure 1. Examples of modern military rifle cartridges: 7.62 mm NATO (left), 5.56 mm NATO (chambered in the M16 rifle) (middle), 7.62 × 39AK-47 (Kalashnikov) (right). Military ammunition terminology uses metric system with bullet diameter expressed in mm.

During flight, bullets are subjected initially to the destabilizing effects of the escaping gases from the muzzle of the gun [26], and thereafter to the drag forces from the air resistance which increase with bullet velocity [4]. Because these forces concentrate on the anterior part of the bullet while its center of mass is located towards its rear, an overturning moment emerges, most prominent on spitzer bullets, which causes the bullet's longitudinal axis to diverge from the line of trajectory [13,26–28]. This divergence is called yaw and is expressed by the angle between the bullet's axis and the velocity vector [2,19,25,29,30]. Because of the spin, yawing results in a complex spiral revolution of the bullet's tip in space about its center of mass, which

is known as precession, similar to the disturbance of a spinning top knocked sideways^[26] (Figure 2). However, under the gyroscopic stabilization by the spin, precession displays a declining amplitude with distance ^[26].



Figure 2. Condensed drawing demonstrating bullet yaw with precession (left), proceeding to tumbling (right). Arrow indicates direction of bullet movement.

When an FMJ bullet penetrates tissue, the resistance encountered resulting in its retardation affects its stability and occasionally its integrity, because tissue density is about 800 times greater than that of air and the spin can no longer maintain the bullet's previous orientation ^[29]. Over a certain distance, which varies depending on the type of the bullet, yawing becomes irreversible, and within a sufficiently long path tumbling eventually occurs, thereafter the bullet advancing base-forward ^[16,17,30] (Figure 2).



Figure 3. Different handgun bullet construction: semi-jacketed hollow-point (SJHP) on the left, and full metal-jacketed round nose (FMJ RN) on the right. Both cartridges are 9 mm Luger.

The other major type of bullet construction is the deforming or expanding bullet which sustains an increase in diameter within the target. This includes solid lead bullets, and the specifically designed partially jacketed bullets which have the tip of the lead core either simply left exposed (jacketed soft-point bullets, JSP) or hollowed (semi-jacketed hollow-point bullets, SJHP). Upon impact

tissue resistance causes these bullets to become flattened or deform into a mushroom shape ^[13]. Deformed bullets do not yaw ^[16]. Hollow-point rifle bullets are mandatory for hunting purposes in order to produce instant “humane” killing of the animal ^[13], but are strictly prohibited for military purposes under the Hague Convention of 1899 as they cause “excessive” wounding ^[14]. Hollow-point handgun bullets (Figure 3) are in use by some police forces, because deformation of a low-velocity projectile prevents over penetration of the target, which otherwise could result in accidental wounding of bystanders.

3. Energy transfer characteristics of gunshot wounds

Several authors ^[13,15,18,31] have discussed the fallacy of describing the severity of GSW by means of the velocity characteristics of the penetrating missile. In the context of wound ballistics, “low-velocity” and “high-velocity” can only refer to the circumstances of wounding, indicating wounds from handguns and rifles respectively ^[32]. However, the use of such terms as estimates of the wound itself is inaccurate and potentially misleading, as it is based on the erroneous impression that the extent of wounding is directly proportional to the impact energy of the projectile, which is greatly influenced by its velocity according to the familiar kinetic energy formula ($KE = 1/2mv^2$) ^[33]. In fact, it is only the energy deposited to the tissues that is transformed to work resulting in tissue disruption ^[8,14,28]. Although the effects of rifle bullets can be far more destructive compared to handguns because of their higher energy ^[32], almost all of these so-called “explosive” effects can be traced to the phenomenon of cavitation ^[3], a prominent manifestation of high-energy transfer, as described below. At the other extreme, a non-deforming (FMJ) rifle bullet traversing in stable flight a limited width of soft tissue will spend only a small fraction of its enormous kinetic energy ^[4]. Therefore, it is more appropriate to think in terms of energy transfer (or deposition) to the wound in order to outline its extent and severity rather than concentrating on the physical properties of the missile ^[4,15,29]. Moreover, the extent of tissue damage along the wound track may vary as a result of non-linear energy deposition ^[14,34]. The rate of energy transfer to the wound

is determined by the tissue resistance to penetration, which is affected by the frontal surface area of the bullet “presented” to the tissue^[14,30]. The critical factor leading to higher amounts of energy deposition along the missile track is any increase in the presented area, which invites drag forces of greater magnitude. There are two main mechanisms responsible for such an occurrence. With yawing, the presented area of the bullet can only enlarge; as the yaw angle approaches 90 degrees both the energy transfer and the resulting wounding effect increase markedly^[35], as the bullet essentially severs tissue with all its length^[13,36]. The small-caliber bullets of the M16 and Kalashnikov AK–74 assault rifles yaw and tumble significantly earlier than the twice heavier bullet used by the ubiquitous AK–47 rifle, thus creating large wounds early in their path^[13]. The other mechanism increasing the presented area of the projectile, and also the diameter of the wound track, is bullet deformation^[15,37].

4. Mechanisms of gunshot injuries

A bullet retained within the tissues has delivered all its energy, creating a blind wound with only an entrance aperture. Alternatively, a perforating (through-and-through) wound may be produced, with the bullet leaving the body through an exit wound^[4]. Although a low-velocity bullet may exit the wound depending on the width and density of the tissues traversed, it has been stated that at high impact velocities, above 550 m/s, a military rifle bullet will always exit an animal the size of a man, following a relatively straight course^[38]. Exit wounds tend to be larger and more irregular than entrance wounds, typically as a result of bullet tumbling^[18,30].

GSW are considered a special form of blunt trauma^[39]. They do not consist simply in plain tissue penetration, since they involve crushing due to overpressure in front of the projectile, and also indirect damage from temporary cavity formation in its wake region^[4,12,15,18,34,40,41]. These mechanisms can be interpreted as a sequence of fluid dynamic phenomena^[40], with the bullet viewed as an immersed body and the surrounding tissue with its high water content as “flowing” backwards around the

projectile’s surface^[41,42]. In addition, in contact or close range GSW, the injury is aggravated by the blast effect of the escaping propellant gases into the tissue^[12,31,43]. Tissue burning^[4] also occurs with bullets retained in the wound.

4.1. Direct tissue damage

Crush injury followed by rupture of the tissue encountered by the leading edge of the advancing bullet leads to the formation of the wound track^[4,7,13,18,41,43]. This combination has been called prompt damage as it occurs immediately in the direct vicinity of the projectile^[44] representing the predominant mechanism of tissue injury in low-energy GSW.

The residual wound track which remains after the passage of the projectile is commonly referred to as the permanent cavity^[2,4,7], although the term “cavity” should probably be reserved for the temporary cavitation phenomenon. The more comprehensive terms “permanent wound channel”^[16] and “permanent wound tract”^[7] have been used indicating the central defect (permanent “cavity”) together with any surrounding area of irreversible tissue damage^[7], the latter resulting from the crushing effect of the overpressure mechanism and the potential disruption from cavitation. Irreversibly damaged tissue subsequently undergoes necrosis and slough contributing to the permanent “cavity” formation^[4]. It is surrounded by an outer hemorrhagic area termed the extravasation zone, which is characterized by interstitial bleeding but absence of macroscopically evident tissue destruction^[4,16].

4.2. Cavitation

As the projectile is moving forward, tissue detaches from the projectile–tissue interface, as a result of boundary flow separation, and is subsequently accelerated radially, the same way as a speedboat displaces water^[30], while the momentum imparted to tissue particles results in the formation of a vacuum^[3,16,41,42]. The underlying process called cavitation becomes clinically important at impact velocities exceeding 600 m/s^[45], thus considered the most important feature in wound ballistics of high-velocity projectiles^[15,16,25]. Cavitation is an extremely dynamic

phenomenon, which exceeds the capacity of the soft tissue to yield to the pressure changes created by the penetrating missile. Because of this inertia, tissue displacement lags behind the bullet, and the resultant deformity, known as the temporary cavity, reaches maximum size within several milliseconds after its passage [3,4,34,45]. Subsequently, the energy stored in any displaced tissue with enough elasticity cause the cavity walls to collapse, with a few cycles of expansion and contraction (“pulsations”) following in a waning fashion, until tissue settles in the form of the residual wound track. This short-lived character of the cavity is emphasized by the name “temporary” [16,40].

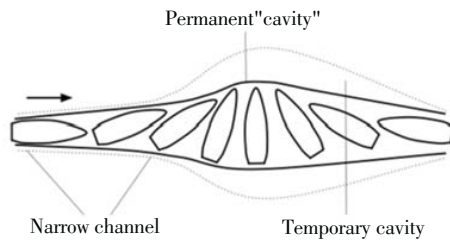


Figure 4. Idealized drawing of temporary cavity formation (dotted line) by military rifle bullet. The cavity expands in spindle-shaped fashion as the bullet yaws and tumbles, after the initial narrow channel. The residual wound track (permanent “cavity”) appears in solid line. Arrow indicates direction of bullet movement.

The magnitude of the cavitation phenomenon is related to the rate of energy deposition. The study of military rifle bullets in synthetic materials simulating muscle tissue suggests that as long as the bullet moves within the target without significant yawing, thus sustaining little retardation, the wound track remains “narrow”, a little wider than the bullet diameter [16]. Although this so-called narrow channel also involves a minor temporary cavitation effect [46], an expanding spindle-shaped cavity becomes evident as the yaw angle increases irreversibly, and becomes maximum in cross section when the bullet yaws at 90 degrees causing wide separation of tissue “flow” (Figure 4), consistent with a dramatic increase in energy transfer. FMJ handgun bullets may also yaw within tissue but do not elicit significant cavitation because these bullets are shorter than rifle bullets and their presented area increases only negligibly with yawing [16]. On the other hand, deforming handgun bullets depending on their velocity give rise to relatively large temporary cavities [9,47].

The damage produced by cavitation results from

stretching due to tensile strain, but also from compression of the surrounding tissue as well as shearing of fascial interfaces within it [3,40]. Although controversy still exists regarding the relative importance of these effects and the extent of the resultant necrosis in muscle tissue [4,7,34,35,48], cavitation is clearly devastating in susceptible organs such as the brain and liver [4,7]. In the extravasation zone tissue injury results from tearing of the elements most sensitive to tensile forces, namely the capillaries [4,16], and there is a direct relationship between the size of the temporary cavity and the width of the extravasation zone [16]. Moreover, the vacuum created during the expansion of the cavity causes suction of foreign material and debris into the wound [49], on top of the contamination already present from the bullet surface, which is not sterilized from heating as commonly believed [13,26]. The clinical picture of a wound channel which is bordered by contused and potentially necrotic tissue inoculated with bacteria represents the hallmark of high-energy gunshot injury [25,37,50]. The external appearance of such a wound may be deceptive with respect to the damage produced deep in the tissues. As previously mentioned, however, a military rifle bullet may induce a low-energy wound in case of a perforating wound track no longer than the narrow channel simulated for that type of bullet [46].

4.3. Bone injuries

Ballistic bone injury is a more complex process than penetration of soft tissue [51]. In general, bone tissue causes marked retardation of the penetrating bullet [4,15,18], as expected by its greater density compared to soft tissue and its related mechanical properties, particularly its hardness [52,53], which may also cause the bullet to deform or break up [18,54].

Drill-hole defects, which are characteristic of low-energy ballistic penetration, are more common in the metaphyseal region of long bones because of the greater proportion of cancellous bone and the associated energy absorptive capacity which limits the extension of fracture lines [55,56]. High-energy ballistic impacts typically produce comminuted fractures [56,57] from the explosive effects of cavitation associated with the fluid properties of bone marrow [3,16,52]. Bone comminution is not uncommon with

handgun injuries [56,57] and may resemble radiologically a high-energy fracture, but the latter involves a much more severely damaged zone of soft tissue [58].

4.4. Head injuries

The impact energy of the projectile, the angle of interaction with the bony surface, and the underlying bone thickness are important determinants of skull penetration [12,20]. Tangential bullet wounds of the skull are known as “gutter” wounds; they may involve only the outer table or the full thickness of the bone [30]. Bullets capable of entering the skull usually have enough remaining energy to reach the opposite side either perforating through it or becoming arrested without exiting [20]. This is commonly associated with early destabilization or deformation of the penetrating projectile, and also creation of bone fragments which may act as secondary missiles [40]. FMJ bullets are more likely to perforate the skull and this likelihood increases with the caliber. However, the size of the permanent wound channel in the brain bears no relationship to the caliber or muzzle energy of the bullet [12].

The head represents a particular structure from a wound ballistics point of view [59]. The pressure buildup by the expansion of the temporary cavity within it can only be relieved by bursting of the skull [30], as demonstrated with high-velocity projectiles penetrating either intact animal heads [3] or human skulls filled with gelatin to simulate the brain substance [50]. By contrast, in the absence of a non-compressible content with fluid properties to transmit the pressure to the braincase, the only defects produced by the same types of projectiles in the empty skull were neat entrance and exit holes with no shattering of bone [3,50]. The same mechanism of hydraulic pressure is responsible for indirect fractures of the thin orbital plates almost invariably produced by handgun bullets penetrating the head [16,30,40].

Brain tissue has little tolerance to sudden increases in pressure as it is firmly enclosed within an unyielding case, and this appears to enhance the consequences of cavitation produced even by low-velocity projectiles. Parenchymal changes extending for some distance around the permanent wound channel have been observed with fatal handgun injuries, most likely attributed to temporary cavitation [60].

Large temporary cavities from FMJ handgun bullets have been demonstrated in experimental models of ballistic brain injury [61]. Moreover, autopsy findings [62] and previous animal studies suggest that the “ordinary” pressure waves [63] associated with cavitation, rather than the early ballistic pressure wave (“shock wave”), may be important causes in the pathogenesis of respiratory arrest following low-velocity ballistic trauma of the head, in the absence of significant mass effect or direct involvement of brainstem structures by the missile track.

5. Conclusion

The damage produced by penetrating bullets depends on the amount of their impact energy that is delivered to the tissues, the rate at which this occurs, and the local response of the tissue zone subjected to cavitation effects from high-energy injuries. Although the complex interactions of the projectile with the various tissues result in a wide range of ballistic injury patterns, awareness of the specific mechanisms that cause increased tissue destruction, namely bullet tumbling and deformation, will assist recognition of the less common injuries involving high energy transfer, which are also associated with a higher risk of infectious complications.

Conflict of interest statement

We declare that we have no conflict of interest

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EXHIBIT 24
TO THE DECLARATION OF JOHN D. ECHEVERRIA

SPECIAL ISSUE ARTICLE

COUNTERING MASS VIOLENCE IN THE UNITED STATES

Why have public mass shootings become more deadly?

Assessing how perpetrators' motives and methods have changed over time

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Research Summary: Public mass shootings in the United States have become substantially more deadly over time. We document this increase, offer a model to explain it, review supporting evidence for the model, and present new findings on offenders from 1966 to 2019. It appears that societal changes have led to more public mass shooters who are motivated to kill large numbers of victims for fame or attention, as well as to more shooters who have been directly influenced by previous attackers. They often spend extended time planning their attacks and are increasingly likely to acquire powerful weapons and develop specific strategies to enhance their lethality.

Policy Implications: New policies should be aimed at addressing the aforementioned factors. For instance, the deadliest public mass shooters' desires for fame and attention might be countered by a change in media coverage policies. Additionally, the deadliest perpetrators' lengthy planning periods have been associated with more warning signs being reported to police, so that type of information could justify denying many potential attackers access to firearms through extreme risk protection orders and red flag laws.

KEYWORDS

fame-seeking, firearms, high-fatality incidents, lethality, public mass shootings

In 2016, the number of people shot by public mass shooters in the United States reached a 40-year high, and in 2017, the number of people killed by active shooters surpassed any year since the FBI began recording data (Duwe, 2017; Hayes, 2017). Public “mass” and “active” shooters refer to a single offender type; the most significant difference is that “mass” shootings are traditionally defined as incidents that result in four or more victim deaths, whereas “active” shootings have no minimum (Fox & Levin, 2015). Notably, these increases do not seem primarily attributable to population growth: They exist even when victimization figures are adjusted per capita (Duwe, 2017).

There has also been a marked rise in high-fatality attacks of this type. At the extreme, although the United States has experienced public mass shootings for more than 50 years, the five deadliest incidents in national history have all occurred since 2007 (Ahmed, 2018). During this span, the tragic “record” for number of victims killed in an American mass shooting has been set (at Virginia Tech where 32 victims died), broken (at the Orlando Pulse nightclub where 49 victims died), and then set again (on the Las Vegas strip where 58 victims died).¹

This disturbing trend seems counterintuitive. After all, there are many reasons why today’s mass shootings should theoretically be less deadly than those from prior decades. Since the 1999 Columbine school shooting, there has been a sustained and dedicated effort to improve how law enforcement officers, medical personnel, and ordinary civilians respond to active and mass shootings (Blair, Nichols, Burns, & Curnutt, 2013; Pons et al., 2015). This priority area has received more funding, training, and public outreach than ever before (Blair et al., 2013; U.S. Department of Justice, 2017). And there have been continued advancements in life-saving medical technology and techniques to help first responders and emergency room surgeons keep more shooting victims from perishing than in the past (Belluz, 2017; Smith & Delaney, 2013).

To date, no one has provided a clear and compelling explanation for why public mass shootings have become deadlier over time. That may be because finding evidence-based answers is so challenging. Similar struggles are often encountered in other areas, such as scholars’ attempts to explain changes in crime rates, climate patterns, or financial markets. Because the path of history provides a sample size of only one reality, it is challenging to know what may have occurred if different variables were present.

In this article, we offer an explanation for why public mass shootings have become more deadly by identifying several key changes in American society and then providing evidence of their corresponding effects on the behavior of some shooters. First, however, we will briefly review the empirical evidence that a quantifiable change has indeed occurred.

1 | INCREASED LETHALITY OF PUBLIC MASS SHOOTINGS

To analyze changes in public mass shootings over time, we drew data from a publicly available list of qualifying incidents ($N = 165$) compiled by Berkowitz, Lu, and Alcantara (2019). According to the definition they used, public mass shootings must involve a firearm and result in at least four or more victims being killed.² Past attack locations for these incidents have included schools, colleges, workplaces, public businesses, government buildings, military facilities, and other popular locations. Shootings that arose from gang conflict or robberies or that took place exclusively in private homes were not included. The list compiled by Berkowitz et al. (2019) comprises both cases documented in prior scholarship—especially from Duwe (2007)—and news reports, and it was designed to capture all incidents from 1966 to present. The starting point of 1966 is widely recognized as the first year of modern mass shootings (with the University of Texas Tower attack); as an ending point, we obtained complete data through August 30, 2019 (which was our last opportunity to update our findings).

TABLE 1 Public mass shootings in the United States by number of victims killed, 1966–2019*

Time period	8 or more victims killed <i>n</i> (% of total)	12 or more victims killed <i>n</i> (% of total)	16 or more victims killed <i>n</i> (% of total)
1966–1969	1 (3%)	1 (5%)	0 (0%)
1970–1979	0 (0%)	0 (0%)	0 (0%)
1980–1989	5 (15%)	2 (11%)	1 (11%)
1990–1999	5 (15%)	2 (11%)	1 (11%)
2000–2009	5 (15%)	3 (16%)	1 (11%)
2010–2019*	18 (53%)	11 (58%)	6 (67%)
Total	34	19	9

Source. Berkowitz et al. (2019). We reviewed all cases with eight or more victims killed to make sure they did not include anyone killed prior to the mass shooting incident. Percentages have been rounded to the nearest whole number.
*Data collected through August 30, 2019.

Table 1 is divided into decades and partial decades (1966–1969, 1970–1979, 1980–1989, 1990–1999, 2000–2009, and 2010–2019), and it provides the number of high-fatality public mass shootings that occurred in the United States in each of these time periods. For this study, we defined “high-fatality” incidents as attacks in which eight or more victims were killed, which is double the traditional standard for a public mass shooting. In the United States from 1966 to 2019, 34 high-fatality incidents met this criterion, which means that our definition includes the top 20% of all public mass shootings based on lethality ($34 / 165 = 20.6\%$). To ensure that this list of high-fatality mass shootings was accurate, we closely reviewed all cases with eight or more victims killed to make sure they did not include anyone killed prior to the mass shooting.

As Table 1 shows, high-fatality incidents have become substantially more common over time: 53% of them occurred from 2010 to 2019. This trend is even more pronounced if we use increasingly stringent thresholds for what qualifies as “high fatality.” If the traditional threshold is tripled, 58% of public mass shootings that killed 12 or more victims have occurred from 2010 to 2019. And if the traditional threshold is quadrupled, 67% of shootings that killed 16 or more victims occurred during the 2010–2019 period. Thus, the deadliest incidents have been occurring more frequently as well.

Because more than three times as many high-fatality attacks (with eight or more victims killed) have occurred since the beginning of 2010 as during any prior decade analyzed in this study, we considered the year 2010 the approximate “inflection point” of this change.³ By comparing incidents from before and after the start of 2010, we can understand the increasing deadliness of public mass shootings in several additional ways. For instance, it is not only the total number of high fatality incidents that has risen but also the proportion of incidents that reached a high-fatality threshold. From 1966 to 2009, approximately 15% of public mass shootings resulted in eight or more victims killed (16 / 109), but from 2010 to 2019, that proportion more than doubled to 32% (18 / 56).

The increase in high-fatality incidents has also had a substantial impact on the overall deadliness of public mass shootings. We calculated the average number of victims killed in all incidents ($N = 165$) before and after the start of 2010, and we found that from 1966 to 2009, public mass shootings averaged 6.2 victim fatalities, but from 2010 to 2019, these attacks averaged 9.1 victim fatalities. Therefore, the average number of victims killed per incident has risen by 47% since the beginning of 2010.⁴

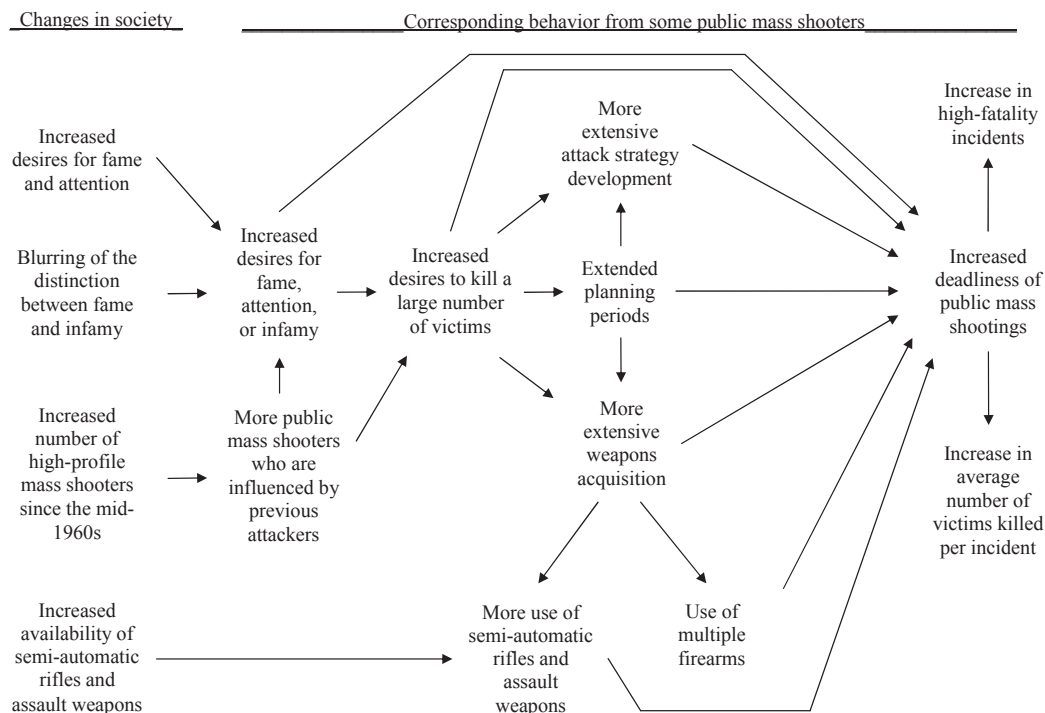


FIGURE 1 Proposed model of increased deadliness of public mass shootings

2 | PROPOSED MODEL

To gather evidence on the motives and methods of public mass shooters, we drew data from a wide range of sources, including from previous scholarship, government reports, primary sources documents (e.g., offender manifestos, journals, or online posts), and news media reports that included information from law enforcement officers, investigators, or witnesses. Naturally, some changes in the nature of this information have occurred over time: for example, the entire news media industry is larger than ever before, and perpetrators from earlier decades could not leave behind online posts like more recent attackers. That being said, we have no reason to think that investigations into extremely deadly public mass shootings during the 1960s, 1970s, or 1980s were any less serious or thorough than they have been in recent years. These incidents are so tragic that they are almost always followed by public demands for answers and by in-depth investigations into attackers' lives. Furthermore, the perpetrators have always had the opportunity to reveal their motives in a variety of ways. Social media posts from a recent mass shooter may be the equivalent of handwritten threats or manifestos from earlier periods.

In Figure 1, we offer a model to explain the increased lethality of public mass shootings. As we will discuss and document in more depth, changes in American society—including increased desires for fame, blurring of the distinction between fame and infamy, and an increased number of high-profile public mass shooters since the mid-1960s—seem to have led to a corresponding rise in the number of public mass shooters and plotters who seek fame and attention through their attacks. Also, an increase in the number of public mass shooters who were directly influenced by previous attackers seems to have occurred. These individuals are often motivated to kill large numbers of victims because of the

widespread attention that will bring them, and some specifically attempt to surpass the body counts killed by their predecessors.

These increasingly common motives seem to have caused a change in perpetrators' most common methods of attack. Put simply, public mass shooters who want to kill large numbers of victims are more likely to take specific steps to accomplish those goals. In particular, they often engage in extended planning periods, they develop more extensive attack strategies, and they seem more driven to acquire weapons that will increase their lethality. In many cases, this weapons acquisition process involves obtaining multiple firearms and at least one semi-automatic rifle or assault weapon. And those who seek these powerful weapons benefit from another key change in American society: the increased availability of semi-automatic rifles and assault weapons for consumers (Bureau of Alcohol, Tobacco, Firearms and Explosives, 2018; Heath, Hansen, & Willingham, 2017).

Of course, this model does not include descriptions of all offenders, and other variations do exist. For example, some public mass shooters have wanted fame or have expressed the desire to kill large numbers of victims but have lacked the means to achieve those goals (Lankford, 2016b). There have also been public mass shooters who had highly lethal weapons but did not seem to care about producing a particularly high death toll (Berkowitz et al., 2019).

As we will discuss and demonstrate in more detail, however, the proposed factors may be associated with why public mass shootings have become increasingly deadly over time.

3 | INCREASED DESIRES FOR FAME AND ATTENTION IN SOCIETY

Within American society, desires for fame, attention, and celebrity status are more widespread and powerful today than ever before (Lankford, 2016b; Sternheimer, 2011; Twenge, 2014; Uhls & Greenfield, 2011). For instance, when children aged 10–12 are asked about the most important thing for their future, their most common answer is “to be famous,” not to be financially successful, be part of a community, or be nice (Uhls & Greenwood, 2012). And far more middle school students say they would like to work as an assistant to a famous celebrity than express interest in becoming a CEO or U.S. senator (Stein, 2013). Along similar lines, whereas people from prior generations put a premium on becoming more spiritual, helping others, and becoming leaders in their community, 51% of Americans aged 18–25 say that “to be famous” is one of their generation’s most important goals in life (Pew Research Center, 2007). Additionally, 50% of millennials (i.e., people born between approximately 1981 and 1996) say they believe “their life should be made into a movie” (Business Wire, 2017).

Notably, many Americans are also increasingly desperate for fame and attention regardless of the cost to themselves or others. One in 6 millennials say they would “forego having children for the possibility of fame,” 1 in 9 say they would “rather be famous than get married,” and 1 in 12 say they would “completely detach themselves from their family to become famous” (Clapit, 2017). Some Americans are also increasingly willing to sacrifice their integrity and values for fame and attention, or to engage in outrageous, salacious, morally questionable, or even criminal behavior to reach such goals (Lankford, 2016b; Sternheimer, 2011; Twenge, 2014; Uhls & Greenfield, 2011).

Perhaps as a result, the distinction between fame and infamy seems to be disappearing. This is apparent in many segments of American society. Magazine covers no longer feature only “good” celebrities; they increasingly showcase rapists, child abusers, drug addicts, and murderers (Levin et al., 2005). Reality TV shows are filled with many people who seem happy to engage in immoral and illicit behavior as long as they get to be seen on television (Lankford, 2016b). And social media has become a competitive battlefield for people who will say or post anything to get noticed (Lankford, 2013; Rossi

& Rubera, 2018). Even the president of the United States has suggested that he subscribes to the axiom that “all press is good press.” Overall, many people have become so desperate for attention that they would rather get negative attention than feel like they are being ignored (Lankford, 2016b; Levin, Fox, & Mazaik, 2005; Pinsky & Young, 2008).

4 | INCREASED DESIRES FOR FAME, ATTENTION, OR INFAMY AMONG PUBLIC MASS SHOOTERS

Unfortunately, these widespread changes in American society seem associated with a corresponding rise in the number of public mass shooters who seek fame, attention, or infamy. Although many of these perpetrators commit suicide or are shot and killed during their attacks, it does not detract from their desire for widespread attention (Langman, 2018; Lankford, 2016b). In fact, it may exacerbate it. Some of these shooters attempt to compensate for their failures in life by creating legacies that will persist long after their deaths (Bushman, 2018; Follman & Andrews, 2015; Langman, 2017, 2018; Lankford, 2016b).

In addition to perpetrators who want to become famous, some public mass shooters also seek attention for an ideological cause. And much like perpetrators who want fame for themselves, these ideologically driven attackers often recognize that killing innocent people will garner substantial media attention. Findings from prior research, however, have indicated that these two types may often overlap (Lankford, 2013, 2018b). Some public mass shooters, including the Columbine shooters and the Virginia Tech shooter, have expressed radical ideologies despite having no formal connection to an extremist group. Conversely, some ideologically driven attackers have sought fame or attention for themselves, in addition to the attention they hoped to bring to their cause (Kruglanski, Chen, Dechesne, Fishman, & Orehek, 2009; Lankford, 2013, 2018b). In fact, terrorist organizations have often marketed the opportunity to be a “martyr” as a way for people who struggled in life to create a powerful legacy (Hoffman, 2006; Lankford, 2013; Pedahzur, 2005).

Overall, the chronological increase in perpetrators seeking fame, attention, and infamy can be documented in several different ways. For one thing, it can be found among active and public mass shooters in general, regardless of how many victims they kill. For instance, Lankford (2016b) found that more fame-seeking shooters attacked in the United States from 2006 to 2015 than over the previous 30 years combined. Notably, these fame-seeking motives have been especially common among the deadliest offenders. From 1966 to 2015, fame-seeking mass and active shooters averaged more than twice as many victims killed as perpetrators who were not known to have this motive (Lankford, 2016b).

In addition, Capellan, Johnson, Porter, and Martin (2019) found that a larger proportion of active and mass shooters since 2010 have been ideologically driven than during any prior decade since the 1960s, so a significant proportion of these perpetrators may have been seeking attention for their cause (and/or themselves). In fact, committing a public mass shooting may have become significantly more attractive to ideological extremists than attacking with other weapons because the likelihood of “success” is so much higher. As Lankford (2013) noted several years ago, “mass-shooting attacks are much simpler to prepare for than elaborate bombings or hijackings” (p. 164), and the data bear that out. Since 9/11, there has not been a single bombing or hijacking in the United States that killed eight or more victims—despite dozens of attempts—and only one vehicle attack which reached that level of deadliness (Bergen, Ford, Sims, & Sterman, 2019). By contrast, there have been 23 public mass shootings over the same time span that killed eight or more victims, which indicates that this method of attack is a significantly better way to get fame and attention.

TABLE 2 Comparison of high-fatality public mass shootings before and after 2010

Variable	1966–2009 (<i>n</i> = 16) Mean/%	2010–2019* (<i>n</i> = 18) Mean/%
Perpetrator age	37.9	29.9
Perpetrator below age 30	25%	67%
Number of victims killed	13.1	18.0
Explicit evidence of fame-seeking or attention-seeking	25%	56%
Explicit or circumstantial evidence of fame-seeking or attention-seeking	44%	78%
Direct evidence that perpetrator was influenced by another specific attacker or attackers	25%	50%
Planned mass shooting for more than 1 year	38%	50%
Attack strategy was developed to increase fatalities	31%	61%
Semi-automatic rifle or assault weapon	31%	56%
Multiple firearms	81%	78%

Notes. High-fatality incidents were defined as those that resulted in eight or more victims being killed and did not include anyone killed prior to the mass shooting. Because the unit of analysis was incidents, for the two incidents with dual perpetrators, the perpetrator ages were averaged. Percentages have been rounded to the nearest whole number.

*Data collected through August 15, 2019.

To document the increase in fame- and attention-seeking among public mass shooters, we closely studied all high-fatality incidents in which eight or more victims were killed in the United States from 1966 to 2019. Although verifying these motives can be difficult, we have found perpetrators who exhibited them as far back as 1966. We coded each incident based on whether there was explicit evidence of fame- or attention-seeking, explicit or circumstantial evidence of fame- or attention-seeking, or no evidence of fame- or attention-seeking. We defined “explicit evidence” to mean that the offender openly admitted seeking fame or attention, directly contacted the media to get it, or made public statements about the attack, before or during the attack, that were intended for a wide audience. We defined “circumstantial evidence” to mean that the offender engaged in other attention-seeking behavior, attacked to bring attention to an ideological cause, or was believed to be seeking fame or attention by people intimately familiar with his case. All remaining incidents were coded as “no evidence.”

As shown in Table 2, among perpetrators of high-fatality public mass shootings, a clear increase in fame- and attention-seeking motives has occurred over time. From 1966 to 2009, only 25% of cases had explicit evidence of fame- or attention-seeking, but from 2010 to 2019, 56% of cases had explicit evidence of this type. Similarly, from 1966 to 2009, 44% of cases had explicit or circumstantial evidence of fame- or attention-seeking, but from 2010 to 2019, that evidence was present in 78% of cases.

A closer look at the public mass shooters who sought fame or attention revealed that not only were they more lethal, but also that most of them fit squarely within the age demographic of Americans who are more likely to prioritize becoming famous. Although the Las Vegas shooter was a clear exception, overall, high-fatality mass shootings were committed by substantially younger perpetrators from 2010 to 2019 ($M = 29.9$) than from 1966 to 2009 ($M = 37.9$). In fact, 67% of high-fatality incidents from 2010 to 2019 were committed by perpetrators younger than 30, compared with only 25% of high-fatality incidents from 1966 to 2009. (The offender’s age was unknown for one case.) Overall, this finding shows support for the possibility that these perpetrators’ more common desires for fame and attention may be affected by changes in their social context.

5 | INCREASED DESIRES TO KILL LARGE NUMBERS OF VICTIMS

For public mass shooters who want fame or attention, there is an obvious answer: Kill a large number of victims. Perpetrators who do so almost always get the reward they seek (Lankford, 2018a; Lankford & Madfis, 2018a).

The relationship between high death tolls and high levels of media attention has been demonstrated empirically. For instance, findings from prior studies have shown that for a mass shooter, more victims killed equals more front page photos of you in the newspaper, more days that you stay on the front pages, more likelihood of you appearing in *The New York Times*, and more articles and longer articles (based on word count) published about you (Dahmen, 2018; Duwe, 2004; Schildkraut, Elsass, & Meredith, 2017).

Of course, many perpetrators do not ever declare exactly how lethal they intend to be, so it is impossible to quantify this motive for them. Anecdotal evidence, however, indicates that there has been a dramatic rise in public mass shooters and plotters who wanted to kill large numbers of victims.

Although a few perpetrators from earlier decades expressed the desire to kill many victims, the most influential case may have been the 1999 Columbine shooting. The fame-seeking perpetrators of that attack—who like many other members of their age cohort, wanted a movie made about their lives—stated that their goal was “[t]he most deaths in U.S. history” and suggested they “hope we kill 250 of you” (Lankford, 2016b, p. 126). Fortunately, they failed to reach those objectives, but they did succeed in both committing the worst school shooting in U.S. history at that time and in inspiring many copycats (Follman & Andrews, 2015).

More recently, the 2011 Tucson shooter wrote “I HAVE THIS HUGE GOAL AT THE END OF MY LIFE: 165 rounds fired in a minute!” (Lankford, 2016b, p. 126), which seems indicative of his highly lethal goals. Similarly, the 2014 Santa Barbara shooter wrote that he wanted “to destroy the entirety of Isla Vista, and kill every single person in it” (Duke, 2014, para. 41). In turn, a teenager whose attack on a Minnesota high school was thwarted in 2014 admitted to police that, “I just wanted as many victims as possible” (Gladwell, 2015, para. 18). Likewise, the 2015 Charleston Church shooter told a friend he wanted to “kill a bunch of people” (Paddock, Sandoval, Schapiro, & Siemaszko, 2015, para. 35), and the 2015 Umpqua Community College shooter wrote that “the more people you kill, the more you’re in the limelight” (Lankford, 2016b, p. 126).

In another recent example, the 2018 Parkland shooter stated in his cell phone video that, “My goal is at least 20 people,” which would have made him one of the deadliest mass shooters in national history. His social media posts included statements such as “I wanna die fighting killing shit ton of people” and “I wish to kill as many as I can” (Marjory Stoneman Douglas High School Public Safety Commission, 2019, p. 246). In a separate case a few weeks later, police arrested a man in Vermont who had acquired weapons, was planning to attack his former school, and had written in his journal that, “I’m aiming to kill as many as I can” (Bidgood, 2018, para. 3). In turn, shortly after his arrest for the 2018 Pittsburgh synagogue shooting, that perpetrator told police that “all these Jews need to die” (Scolforo, Breed, & Lauer, 2018, para. 3). Similarly, after his arrest, the 2019 El Paso shooter told investigators that “he wanted to shoot as many Mexicans as possible” (Francescani, Katersky, Hoyos, Hutchinson, & Allen, 2019, para. 9).⁵ He had reportedly participated in an online forum where mass shooting death counts are referred to as the “score”—with the most lethal shooter in history having the “high score” (Ailworth, Wells, & Lovett, 2019).

Circumstantial evidence indicates that many of the other deadliest shootings in U.S. history were also intended to produce a high death toll. As just one example, the 2017 Las Vegas shooter’s brother Eric

“believed ... [he] would have planned the attack to kill a large amount of people because he would want to be known as having the largest casualty count. [He] always wanted to be the best and known to everyone ... [he] needed to be seen as important” (Las Vegas Metropolitan Police Department, 2018, p. 116). This statement is consistent with other elements of the Las Vegas shooter’s behavior, such as his lethal attack strategy and extreme weapons acquisition (Las Vegas Metropolitan Police Department, 2018).

6 | INCREASED NUMBER OF HIGH-PROFILE PUBLIC MASS SHOOTERS SINCE THE MID-1960S—AND THEIR INFLUENCE

Another important factor may be the overall increase in the number of high-profile public mass shooters since the mid-1960s. As noted earlier, the year 1966 is widely recognized as the beginning of the rise in these types of shootings (with the University of Texas Tower attack), and multiple data sources indicate that public mass shootings in the United States have become more frequent since that time (Berkowitz et al., 2019; Bjelopera, Bagalman, Caldwell, Finklea, & McCallion, 2013). Over the same general period, news media and information dissemination technologies have grown exponentially, resulting in far more high-profile attackers than ever before (Lankford, 2016b). These killers are no longer covered only by newspapers, radio, and network news; they are now also featured on 24/7 cable news, online news, blogs, podcasts, and social media platforms.

One consequence of the existence of more high-profile public mass shooters is that they can influence subsequent attackers. To get a better sense of changes in these influences over time, we coded each high-fatality incident for evidence that the perpetrator was directly influenced by a previous attacker or attackers. To avoid any ambiguity, we only counted perpetrators who were known to have directly cited, referenced, or studied a previous public mass killer. Naturally, this does not account for the more subtle ways that most members of society are affected by their general awareness of national news.

As shown in Table 2, we found that from 1966 to 2009, only 25% of high-fatality public mass shootings were committed by perpetrators known to have been specifically influenced by a previous attacker or attackers. But from 2010 to 2019, that proportion rose to 50%.

These types of influence have been analyzed by scholars using a variety of terms, including “contagion,” “imitation,” “inspiration,” and “copycat behavior” (Kissner, 2016; Langman, 2017, 2018; Lankford & Madfis, 2018a,b; Meindl & Ivy, 2018; Towers, Gomez-Lievano, Khan, Mubayi, & Castillo-Chavez, 2015). Although the precise effects are impossible to determine for every case, prior research findings indicate that these influences may increase some at-risk individuals’ desires to attack at all, to kill for fame and attention, and/or to kill a large number of victims for a correspondingly larger amount of fame and attention (Kissner, 2016; Langman, 2017, 2018; Lankford, 2016b; Lankford & Madfis, 2018a,b; Meindl & Ivy, 2018; Towers et al., 2015). For instance, sometimes the role model may primarily serve as inspiration, whereas in other cases, the role model is influential by vividly demonstrating that high-fatality killers of this type are consistently rewarded by the media with fame (Lankford, 2016b; Lankford & Madfis, 2018a,b; Meindl & Ivy, 2018).

Because these perpetrators are often competing for fame, attention, and legacy, many of them also view body counts as a competition, and therefore, they may attempt to surpass the death tolls of previous attackers. Among our sample of high-fatality public mass shootings from 1966 to 2019 ($n = 34$), we found that attacks that were directly influenced by a previous attacker or attackers were 48% more deadly, on average, than attacks for which there was no evidence of such influences.

There are also other indications of this relationship between previous attackers’ influence and subsequent attackers’ highly lethal intentions. For example, at least 13 cases have involved plotters who specifically referenced Columbine and stated that they wanted to exceed its body count (Follman &

Andrews, 2015). Along similar lines, prior to his 2012 attack, the Sandy Hook shooter posted online that he was impressed that a mass shooter in Norway had set the world record for victims killed—and then he personally went on to commit the second deadliest public mass shooting in U.S. history, at that time (Lankford, 2016b).

In another case, the 2015 Roanoke shooter wrote in his manifesto that he “was influenced” by the Virginia Tech shooter: “That’s my boy right there. He got NEARLY double the amount that [the Columbine shooters] got” (Stein, 2015, para. 4). Likewise, the 2016 Townville shooter wrote, “I HAVE TO BEAT [the Sandy Hook shooter]. ... At least 40,” before increasing his goal: “I think I’ll probably most likely kill around 50 or 60. ... If I get lucky maybe 150” (Cox, 2018, para. 4, 14). Subsequent investigations revealed that he had used his phone to search on “deadliest U.S. mass shootings” and “top 10 mass shooters” (Cox, 2018). Even more recently, a thwarted 2018 school shooting in Maine was motivated by the suspect’s “express intention to become the most notorious school shooter in American history by exceeding the number of people killed recently in Florida” (Associated Press, 2018, para. 5). In online posts, he “estimated he could kill as many as 30” (Associated Press, 2018, para. 4). Fortunately, not all of these attackers were successful in killing as many people as they intended, but their statements reveal a possible rise in the number of public mass shooters who want to kill large numbers of victims to surpass the previous attackers who influenced them.

7 | EXTENDED PLANNING PERIODS

In general, most public mass shootings are premeditated, but the amount of planning varies considerably. In one of the first studies to measure this variable, Vossekuil, Fein, Reddy, Borum, and Modzeleski (2002) found that 51% of school shooters planned their attacks for at least 1 month. More recently, Silver, Simons, and Craun (2018) found that among cases with sufficient evidence to make a determination, 77% of active shooters planned their attacks for more than 1 week, 62% planned for more than 1 month, and 9% planned for more than 1 year.

To improve our understanding of how the deadliest perpetrators plan their attacks, we coded each high-fatality incident from 1966 to 2019 for evidence that it was planned for more than 1 year, which represented the highest threshold found in prior research. Because it is impossible to read perpetrators’ minds, we calculated duration of planning based on the first point at which they were known to have expressed interest in committing a mass killing or to have taken specific steps to prepare for their attack.

As shown in Table 2, we found only a small increase in duration of planning over time. From 1966 to 2009, 38% of high-fatality incidents were planned for more than 1 year, whereas from 2010 to 2019, that proportion rose to at least 50%. (We say “at least” because planning data are not yet available for some of the most recent incidents.) Because this chronological increase is small, it indicates that perpetrators from the last decade are only moderately more likely to engage in extended planning periods than their predecessors.

What seems far more clear, however, is that perpetrators who planned their attacks for more than 1 year have been substantially more deadly, on average, than those who planned for less time. Overall, we found that at least 44% of high-fatality attacks were planned for a year or more compared with only 9% of active shootings overall (Silver et al., 2018). And within our sample of 34 high-fatality incidents, those that were planned for more than 1 year resulted in 85% more victims being killed than those with shorter planning periods.

Further research could yield valuable insights on why extended planning periods seem associated with increased lethality. Some perpetrators who spend a long time planning may be more likely to develop attack strategies and acquire weapons that directly increase their lethality. A full year, however,

is certainly not required to prepare for a mass shooting, so the explanation may involve psychological factors as well. For example, a year of fantasizing about becoming a famous public mass shooter may increase perpetrators' homicidal resolve and commitment to killing many victims. Perpetrators who spend a long time planning, ruminating, and fantasizing may also be more susceptible to the influence of other attackers they see in the news, and thus, they may be more likely to be inspired by them, to copy them, to compete with them, or to want to surpass them.

8 | MORE EXTENSIVE ATTACK STRATEGY DEVELOPMENT

Public mass shooters who want to kill large numbers of victims often develop an attack strategy to accomplish that goal. This seems far more effective than simply walking into a public place and opening fire. To measure the presence of this variable, we coded each high-fatality incident from 1966 to 2019 for evidence that it involved an attack strategy designed to produce a high death toll. Qualifying strategies included perpetrators' research and analysis of prior public mass shootings (if it seemed tactical and separate from inspiration or curiosity), their calculated selection of victim-rich target locations, their attempts to prevent victims from escaping, and other tactics designed to increase their lethality.⁶

During the same period when public mass shootings have become increasingly deadly, the number of perpetrators who used these attack strategies has increased as well. From 1966 to 2009, 31% of high-fatality incidents involved strategies to increase the perpetrators' lethality, but from 2010 to 2019, that proportion grew to 61% (see Table 2). As expected, we found that perpetrators who used attack strategies of this type killed more victims, on average, than perpetrators who did not.

There are a few notable examples from the earlier period. For example, the 1966 University of Texas shooting involved the perpetrator bringing his weapons to the tower's observation deck, so he could shoot from a tactically advantageous position. The 1991 Luby's cafeteria shooter crashed his truck through the front window of that restaurant before opening fire, combining a vehicle attack with his mass shooting. And the 2007 Virginia tech shooter deliberately chained three school doors shut to prevent victims from escaping.

Such strategies, however, have been far more common since 2010. For instance, the 2012 Aurora shooter wrote that he selected a particular movie theater because it would have many people "packed in single area" and he could lock its doors, so his mass shooting would result in "mass casualties" (Follman, 2015, diary image, p. 51). The 2012 Sandy Hook shooter prepared for his attack by creating and analyzing a "7-by-4-foot spreadsheet documenting the names, body counts, and weapons from previous mass murders" that "sounded like a doctoral thesis," according to law enforcement (The Week, 2015, para. 5). And the 2015 Umpqua Community College shooter analyzed prior perpetrators and wrote that, "[T]hey don't work fast enough and their death toll is not anywhere near where it should be. They shoot wildly instead of targeted blasts. They also don't take on the cops" (Anderson, 2017, para. 33). He then engaged in a firefight with police during his own attack.

In other recent examples, the 2016 Orlando Pulse nightclub shooter considered several well-populated attack locations, including Disney World, before deciding on the Pulse nightclub because it was a softer target. The 2017 Las Vegas shooter searched online for "biggest open air concert venues in USA" and "how crowded does Santa Monica Beach get" before deciding on his attack location (Las Vegas Metropolitan Police Department, 2018). He also decided to shoot from an elevated position, use a bump stock to increase his firing rate, and shoot incendiary rounds at nearby fuel tanks in an attempt to spark an explosion. And the 2018 Parkland shooter apparently selected a "a unique building" at the school where he would be "unchallenged" and "unfettered," according to law enforcement, and he kept reminders on his phone to improve his killing ability ("Control your breathing and trigger pull ... same

thing every time”; Marjory Stoneman Douglas High School Public Safety Commission, 2019, p. 247; Mazzei, 2018, para. 19). Perhaps copying the 1966 Texas shooting and 2017 Las Vegas shooting, the Parkland shooter also “tried to set up a sniper position from the windows” to shoot fleeing students from above, but fortunately his bullets could not penetrate the hurricane-resistant glass (Mazzei, 2018, para. 16). More recently, the 2019 Virginia Beach shooter used a silencer to muffle the sound of his shots, which made it more difficult for both potential victims and law enforcement to pinpoint his location.

9 | MORE EXTENSIVE WEAPONS ACQUISITION

Strong empirical evidence shows that weapon choice affects lethality. Multiple data sources indicate that active and public mass shootings committed with semiautomatics rifles and assault weapons result in more victims killed, on average, than attacks with less powerful weapons (de Jager et al., 2018; Follman, Aronsen, & Pan, 2018; Klarevas, 2016). Similarly, previous research findings have revealed that active and public mass shootings committed by perpetrators with multiple firearms also result in more victims killed, on average, compared with attacks with a single firearm (Klarevas, 2016; Lankford, 2015, 2016a). The results of our analysis of all public mass shootings ($n = 165$) compiled by Berkowitz et al. (2019) also revealed the same relationship between multiple firearms and higher fatality counts. (Data on use of semiautomatics rifles and assault weapons were not available for all 165 cases.)

It is therefore no surprise that attackers who want to kill large numbers of victims often increase their lethality by arming themselves with a semi-automatic rifle or assault weapon and/or obtaining multiple firearms. In this way, motive can affect weapons acquisition. Not all public mass shooters with powerful weapons seem to care about producing high death tolls, but public mass shooters who want to produce high death tolls seem to care about having powerful weapons.

Overall, over time, public mass shooters’ use of semi-automatic rifles and assault weapons has increased (Follman et al., 2018; Klarevas, 2016), and we similarly found an increase in the use of these weapons by the deadliest attackers. From 1966 to 2009, 31% of high-fatality public mass shootings were committed by perpetrators armed with a semi-automatic rifle or assault weapon, whereas from 2010 to 2019, that proportion rose to 56% (see Table 2). As expected, we also found that within this sample, perpetrators with semi-automatic rifles/assault weapons killed more victims, on average, compared with perpetrators without them.

On the other hand, although we did find that the deadliest attackers usually armed themselves with multiple weapons, we did not find an increase in this variable over time. From 1966 to 2009, 81% of high-fatality incidents were committed by perpetrators who had acquired multiple weapons, whereas from 2010 to 2019, that proportion was slightly smaller at 78% (see Table 2). The lack of change in this variable over time is not particularly surprising given that for most of American history, people who have wanted to purchase multiple firearms have encountered few barriers to doing so.

A substantial increase has occurred, however, in the availability of semi-automatic rifles and assault weapons. Although the Bureau of Alcohol, Tobacco, Firearms and Explosives (2018) does not provide details on the production of these specific firearm types, the overall number of rifles manufactured in the United States grew from less than 1 million in 1986 to more than 4 million in 2016. And in particular, AR-15-styled weapons have constituted an increasingly larger proportion of total rifles manufactured each year (Heath et al., 2017). There was a temporary limit to this growth from 1994 to 2004—when the Federal Assault Weapons Ban increased the obstacles and costs—but the assault rifle market quickly rebounded after the ban’s expiration. For instance, the number of assault rifle manufacturers rose by approximately 1,700% from 2000 to 2015 (Archer, 2015). And by 2016, more

than 60% of all rifles sold in the United States were AR-15 styled (Heath et al., 2017). Furthermore, as the available supply has spiked, prices from some retailers have dropped precipitously, making it even easier for public mass shooters to purchase the weapons they want (Heath et al., 2017).

Overall, the increased use of semi-automatic rifles and assault weapons is an important reason why public mass shootings have become more deadly over time. It makes sense: Motivated offenders with more lethal weapons should be expected to do more harm. In addition, however, even when holding firearm use constant, fatalities have risen. For instance, data from Klarevas (2016) show that attacks with assault weapons from 2006 to 2015 were more deadly compared with attacks with assault weapons from 1966 to 2005. And data from Follman et al. (2018) show the same general trend: Perpetrators with semi-automatic rifles and assault weapons averaged more victims killed from 2010 to 2018 compared with perpetrators with those same types of weapons killed in previous decades. We also found that public mass shootings committed with multiple firearms from 2010 to 2019 were more deadly than attacks with multiple firearms from earlier time periods.

In other words, weapons make a difference, but they do not tell the whole story, which is consistent with our proposed model. To understand why public mass shootings have grown deadlier over time, multiple factors—and their interaction—must be considered.

10 | WORST OF THE WORST

In an early section of this study, we provided data illustrating that high-fatality public mass shootings have become more common over time even if “high-fatality” incidents are defined in several different ways. In fact, the more extreme the definition, the more extreme the increase.

Now that we have presented our model and the evidence for each of its factors, we thought it worthwhile to reexamine the most deadly cases. In Table 3, we list all public mass shooters who killed 16 or more victims in the United States from 1966 to 2019. For each perpetrator, we identified whether there was (a) explicit evidence of fame-seeking, (b) explicit or circumstantial evidence of fame-seeking or attention-seeking, (c) direct evidence of being influenced by another specific attacker or attackers, (d) planning for more than 1 year, (e) a specific attack strategy developed to increase fatalities, (f) the acquisition of a semi-automatic rifle or assault weapon, and (g) the acquisition of multiple firearms.

The results show a clear increase in many of these factors over time. Although the extremely lethal public mass shooters from 1984 and 1991 both had multiple firearms (and one had an assault weapon), they lacked some of the other factors that seem to have sparked an increase in the deadliness of public mass shootings in recent years. For example, the earlier perpetrators did not show signs of being fame-seekers or attention-seekers or of having planned their attacks for more than 1 year. And back then, that may not have mattered as much. Their attacks—and the large number of victims they killed—occurred in another social context, long before Columbine awakened America to the nature of this threat, and long before police, civilians, and emergency medical personnel were trained on how to respond to these shooters.

By contrast, the more recent public mass shootings adhere to a consistent profile. Without exception, these perpetrators sought fame or attention, and most of them were directly influenced by previous attackers. They almost all planned their attacks for more than 1 year. And in most cases, they developed a specific attack strategy to kill more victims, acquired a semi-automatic rifle or assault weapon, and armed themselves with multiple firearms. This deadly combination of factors describes many of the “worst of the worst” public mass shooters and their increasingly frequent attacks.

TABLE 3 Key factors among public mass shooters who killed 16 or more victims, 1966–2019*

Incident	(1) Explicit evidence of fame-seeking or attention-seeking	(2) Explicit or circumstantial evidence of fame-seeking or attention-seeking	(3) Direct evidence perpetrator was influenced by another specific attacker(s)	(4) Planned mass shooting for more than one year prior to attack	(5) Attack strategy developed to increase fatalities	(6) Semi-automatic rifle or assault weapon	(7) Multiple firearms	Total # of exhibited factors
1984 San Ysidro McDonald's shooting	no	no	no	no	no	yes	yes	2
1991 Luby's cafeteria shooting	no	no	yes	no	yes	no	yes	3
2007 Virginia Tech shooting	yes	yes	yes	yes	yes	no	yes	6
2012 Sandy Hook shooting	yes	yes	yes	yes	yes	yes	yes	7
2016 Orlando Pulse nightclub shooting	yes	yes	yes	yes	yes	yes	yes	7
2017 Las Vegas shooting	no	yes	no	yes	yes	yes	yes	5
2017 Sutherland Springs shooting	yes	yes	yes	yes	no	yes	yes	6
2018 Parkland shooting	yes	yes	yes	yes	yes	yes	no	6
2019 El Paso shooting	yes	yes	yes	no	no	yes	no	4

*Data collected through August 30, 2019.

11 | POLICY RECOMMENDATIONS

New policies should be aimed at addressing the factors that seem to be contributing to making public mass shootings more deadly. It is unlikely, however, that we could successfully counter all of the key variables. Among Americans, for instance, the pursuit of fame and attention has become so pervasive that it could not be mitigated any time soon, even though the findings from psychological studies have shown that fame-seeking is often unhealthy (Nickerson, Schwarz, Diener, & Kahneman, 2003). Similarly, the blurring of fame and infamy is an unfortunate but inevitable result of the competition for attention, because many people accurately recognize that outrageous behavior increases the chances of them getting noticed.

11.1 | Changing media coverage of public mass shooters

Fortunately, it may be possible to disrupt the reward system that incentivizes public mass shooters to kill large number of victims for fame and attention. The key is changing how the news media cover these attacks. Although the media landscape is more disaggregated than ever before, traditional media organizations are still the primary vehicle that transforms perpetrators into celebrity killers (Lankford, 2018a). In fact, most social media discussions of individual mass shooters start with people disseminating, reposting, and reacting to reports from traditional news outlets.

How should the media change its approach? The consensus from scholars and law enforcement is clear: Stop publishing the names and photos of public mass killers (except during ongoing searches for escaped suspects), but continue reporting the other details of these crimes in a responsible manner. An open letter calling for this approach has been signed by 149 criminologists, professors, and law enforcement professionals (“Dear Members of the Media,” 2017). And similar recommendations have been supported by the FBI, the International Association of Chiefs of Police, the International Police Association, and the advocacy group “No Notoriety,” along with some political leaders, families of victims, and media members themselves (Federal Bureau of Investigation, 2017; Lankford & Madfis, 2018a). If this approach is implemented nationwide, it could result in deterring a substantial proportion of fame- and attention-seekers from committing public mass shootings, while removing the incentive for them to kill large numbers of victims to forge a legacy. The strategy of refusing to publish their names and photos would also be consistent with the core tenets of deterrence theory (Stafford & Goodrum, 2001): It would be swift, certain, and severe.

But media organizations that adopt this policy need to be loud and clear about their intentions by letting everyone know—including potential perpetrators. As an analogy, removing cash from bank vaults would only deter bank robbers if they were *aware* that their incentive for robbing a bank was no longer present. If we reach a point when killing a large number of innocent people is no longer rewarded with fame and attention, the news of this important change needs to become common knowledge. Otherwise, we would expect a substantial lag between the reduced rewards for criminal behavior and criminals’ perception that the rewards have been reduced.

In addition to deterring some public mass shooters and removing their incentive for killing large numbers of victims, another potential benefit of not giving them publicity is that it could limit their influence on copycats and imitators. As a reminder, we found that from 2010 to 2019, at least 50% of high-fatality public mass shootings were committed by perpetrators who were specifically influenced by a previous attacker or attackers. It is important to both prevent future perpetrators from becoming dangerous role models and reduce the influence of past attackers. In their aforementioned letter to the media, 149 criminologists, professors, and law enforcement professionals called for the coverage to “stop using the names, photos or likenesses of past perpetrators” (“Dear Members of the Media,” 2017,

para. 3). Similarly, Follman (2019, para. 13) recently suggested that “it’s time to bury the Columbine shooters” because although those perpetrators have been deceased for more than 20 years, their influence has been kept alive by the continued fixation on them as historic figures. Of course, a complete elimination of references to past mass shooters is not realistic, but it should be possible to let their influence fade if their identities are not constantly republished.

Although the ideal approach might be for the news media to stop publishing mass shooters’ names and photos altogether, Lankford (2018c, p.3) identified a middle ground that some outlets might find more palatable. He challenged editors and reporters to ask themselves “How *often* does the public need to read/hear a mass shooter’s name [or] ... see a mass shooter’s face in the news?” Thoughtful people may disagree about whether perpetrators’ names and photos should be published at all, but few would claim that they need to be repeatedly regurgitated in news coverage for weeks, months, and years after an attack—as has been the standard operating procedure for decades.

The advantage of a moderate approach is that it may be less intimidating for media companies to implement. The disadvantage is that the benefits are less assured. One likely benefit is that reducing the amount of coverage perpetrators receive should reduce the number of copycats and imitators. After all, in accordance with basic advertising principles, if public mass shooters receive less attention, there should be fewer at-risk consumers who become attracted to the criminal opportunity they are promoting (Lankford & Madfis, 2018b). It is less clear, however, whether a moderate approach to deterrence would make a meaningful difference. Would potential attackers be deterred by knowing they would get *less* fame and attention than past shooters have received, if they would still receive far more than they could acquire through conventional means?

We may find out. As public mass shootings have continued to grow more deadly—both in the United States and abroad—a few media organizations have begun to alter their approach. For instance, after the 2019 New Zealand attack that killed 51 victims, *The New York Times* published the suspect’s name and photo but kept his name out of the headlines and his photo off the front page (Ingber, 2019). Additionally, *The New York Times* did not run any portions of the gunman’s manifesto or video of his attack and did not publish links to that content (Ingber, 2019).

This decision was admirable, but there are still many unanswered questions. Will *The New York Times* remain fully committed to its new approach even when there are highly lethal mass shootings in the United States? And how will other major media organizations react—or fail to react—to calls from scholars and law enforcement officials for more responsible coverage? Will they follow *The New York Times*’s lead or cling to their policies from the past? Furthermore, how will the news media handle their references to past perpetrators? For instance, criminal trials for the Parkland school shooter and the El Paso shooter could become significant news events. Will the media repeatedly publish these shooters’ names and faces in their coverage? Or will they refuse to give them any celebrity treatment?

11.2 | Reducing firearms access for potential attackers

In addition to policies designed to reduce the number of people who want to kill large numbers of victims, some policies could help counteract potential public mass shooters’ methods. In particular, although it may be impossible to keep these offenders from engaging in long planning periods or developing extensive attack strategies, we may be able to reduce their access to firearms, which would represent important progress because most active and public mass shooters have obtained their weapons legally (Lankford, Adkins, & Madfis, 2019; Silver et al., 2018).

The key would be to exploit some of the factors that make the deadliest attackers different from other perpetrators. Researchers have shown that compared with less lethal offenders, the deadliest

perpetrators seem much more likely to (a) plan their attacks for more than 1 year, (b) reveal their violent thoughts/intent prior to attacking, (c) reveal their specific interest in mass killing, (d) be reported to law enforcement for their concerning behavior, and (e) be reported to law enforcement for their concerning interest in homicide (Lankford et al., 2019).

In other words, the deadliest public mass shooters' murderous intent is larger, but so is their criminal footprint. And this makes sense: When more ambitious attacks are planned over a longer period of time, that creates more opportunity for perpetrators to make mistakes and let incriminating information slip out, along with more opportunity for warning signs to be observed by the public and reported to law enforcement. The deadliest public mass shootings have the worst impact on society, but they should be the easiest to prevent.

Policy makers and practitioners should capitalize on these frequent warning signs to deny more potential perpetrators access to firearms. One way would be to expand the use of "red flag laws," "extreme risk protection orders," and "gun violence restraining orders," which are just different labels for similar state laws that temporarily prevent at-risk or dangerous people from legally possessing firearms. Depending on the state, these orders allow for families, household members, law enforcement officers, mental health providers, or school administrators to petition a court for the removal of firearms based on evidence that the individual poses a threat to him- or herself or others (Giffords Law Center, 2019; Roskam & Chaplin, 2017). As of this writing, 17 U.S. states and Washington, DC, have adopted these laws, but the implementation procedures and the evidentiary requirements vary considerably (Giffords Law Center, 2019; Roskam & Chaplin, 2017). Because public mass shootings are a national problem, red flag laws and extreme risk protection orders should be present in all 50 U.S. states.

To make these laws as effective as possible, further work is needed. For instance, in places where the procedure for getting an order approved and executed is too cumbersome, or where the standard of evidence is too high, revisions to the law may be helpful. It is also imperative that evidence-based findings from threat assessment research are used to inform court decisions about which individuals pose a serious threat. Otherwise, some judges may be hesitant to prohibit firearms access for individuals who have not yet committed a crime—even if they have exhibited dangerous warning signs that are well established in the scientific literature.

As an example, an Orlando judge ruled in 2018 that a university student who posted online that the Las Vegas and Parkland shooters were his "heroes" should have the right to purchase firearms (Torralva, 2018). When interviewed by police, the student had said, "It would take a lot to push me over the edge," but that if he had a romantic breakup or was fired from a good job, he might attack the middle or high school where he was bullied growing up (Torralva, 2018, para. 11). The judge apparently agreed with the student's attorney, who argued that the young man just "wanted to look like a badass on Reddit" (Torralva, 2018, para. 15) and was exercising his freedom of speech in praising mass shooters. The findings from prior research have shown, however, that several copycat attackers have similarly praised previous mass shooters as "heroes" (Langman, 2017, 2018), and that the types of personal crises this student referenced as possible triggers—which most people experience at some point in their lives—commonly precede public mass shootings (Lankford, 2013; Newman, Fox, Roth, Mehta, & Harding, 2004; Silver et al., 2018). Regardless of whether this particular individual ends up harming anyone, in the aggregate, more Americans are likely to be killed by public mass shooters if those who make such statements are able to access firearms easily.

Another way to improve the effectiveness of red flag laws and extreme risk protection orders would be to extend their duration. Currently, these orders expire after 6 months or 1 year unless they are renewed (Giffords Law Center, 2019), but the threat posed by the deadliest public mass shooters often lasts far longer. Nearly half of the high-fatality attacks we studied were planned for more than 1 year, so

TABLE 4 Evidence for chronological increases of factors in proposed model

Changes in society	Types of evidence	Sources
Increased desires for fame and attention	empirical & anecdotal	Pew Research Center (2007); Pinsky and Young (2008); Sternheimer (2011); Twenge (2014); Uhls and Greenfield (2011, 2012)
Increased blurring of fame and infamy	empirical & anecdotal	Lankford (2016b, 2018a); Levin et al. (2005)
Increased number of high-profile mass shooters since the mid-1960s	empirical	Berkowitz et al., 2019; Bjelopera, Bagalman, Caldwell, Finklea, & McCallion, 2013
Increased availability of semi-automatic rifles and assault weapons	empirical	Bureau of Alcohol, Tobacco, Firearms and Explosives (2018); Heath et al. (2017)
Changes among some public mass shooters	Types of evidence	Sources
Increased desires for fame, attention, or infamy	empirical	Lankford's (2016b) findings on active shooters ($n = 219$); Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
More public mass shooters who were influenced by previous attackers	empirical	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Increased desires to kill large numbers of victims	anecdotal	Lankford & Silver's (2019) findings on public mass shootings and thwarted shootings in which offender commented on desired death toll
Extended planning periods	n/a*	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
More extensive attack strategy development	empirical	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
More use of semi-automatic rifles and assault weapons	empirical	Klarevas's (2016) findings on gun massacres ($n = 111$); Follman et al.'s (2018) data on public mass shootings ($n = 86$); Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Use of multiple firearms	n/a*	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Increase in high-fatality public mass shootings	empirical	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Increase in average victims killed per public mass shooting	empirical	Lankford & Silver's (2019) findings on public mass shootings ($n = 165$)

*We found only a small chronological increase in high-fatality public mass shooters' planning periods and no chronological increase in their use of multiple firearms, even though both variables seem substantially more common among the deadliest perpetrators than among less-lethal attackers.

TABLE 5 Evidence that factors in proposed model are associated with higher lethality for public mass shooters

Factor associated with increased lethality	Types of evidence	Sources
Desires for fame, attention, or infamy	empirical	Lankford's (2016b) findings on active shooters ($n = 219$); Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Desires to kill large numbers of victims	anecdotal	Lankford & Silver's (2019) findings on public mass shootings and thwarted shootings in which offender commented on desired death toll
Perpetrator was influenced by another specific attacker or attackers	empirical	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Extended planning periods	empirical	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$) and comparison with Silver et al.'s (2018) findings on active shooters ($n = 34$)
Extensive attack strategy development	empirical	Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Use of semi-automatic rifles and assault weapons	empirical	de Jager et al.'s (2018) findings on active shootings ($n = 249$); Follman et al.'s (2018) data on public mass shootings ($n = 86$); Klarevas's (2016) findings on gun massacres ($n = 111$); Lankford & Silver's (2019) findings on high-fatality public mass shootings ($n = 34$)
Use of multiple firearms	empirical	Klarevas's (2016) findings on gun massacres ($n = 111$); Lankford's (2015) findings on active shootings ($n = 185$); Lankford's (2016a) findings on public mass shootings ($n = 292$); Lankford & Silver's (2019) findings on public mass shootings ($n = 165$) and high-fatality public mass shootings ($n = 34$)

delaying these perpetrators for only 6–12 months would probably not be sufficient. Instead, an initial term of 4 or 5 years—renewable for similar length terms, as needed—would provide more assurance that the risk has been mitigated.

It would also make sense to require that extreme risk protection orders be entered into the National Instant Criminal Background Check System (NICS) so that federally licensed firearm dealers would be prohibited from selling to these individuals. This process would also affect sellers in states that have enacted a background check requirement at the point of transfer of any firearm.

12 | CONCLUSION

Scientific progress requires contributions from a community of scholars, working both independently and in concert. To that end, we have summarized the types of evidence for our model and its key factors and have presented that information in Table 4 and Table 5. Our hope is that this summary will serve to assist other researchers in identifying further areas for study that could enhance, extend, or refine our understanding of this subject.

It should be acknowledged that the level of evidence varies. For some factors, many scholars have independently collected evidence that shows empirical support for our assertion, whereas for others, our study is the first to examine a given relationship. Accordingly, further research and replication may be most valuable in some of the new areas we have identified here. As one example, we found that perpetrators who planned their attacks for more than 1 year killed more victims, on average, than those with shorter planning periods, but additional research on this variable could yield valuable insights. Future studies could also be designed to test our entire model statistically, but running tests with sufficient statistical power would require in-depth research and investigation of a large sample of public mass shooters across varying levels of lethality.

In the meantime, deadly mass shootings continue to devastate far too many American communities, and something needs to be done. We do not claim to have a magical solution that would completely eliminate this problem. The potential benefits of implementing our policy recommendations, however, may outweigh the risks of maintaining the status quo. A society in which dangerous and disturbed people have reduced access to firearms and reduced incentives to kill large numbers of victims would be at least a little bit safer for everyone.

ENDNOTES

¹ No names of mass shooters are included in this text, in accordance with the “No Notoriety” campaign and Lankford and Madfis’s (2018a) proposal to deny offenders the attention they often seek.

² We focused on victim fatalities instead of on total victim casualties (i.e., fatalities + injuries) for several reasons. First, because although fatalities can be studied as a consistent measure of severity, injuries vary dramatically from being life-threatening to minor. We do not have data to account for that variation. Second, because although the data on fatalities provide a consistent measure, data on injuries seem inconsistent. For instance, in some cases, injury counts seem to include only victims who were nonlethally shot, whereas in other cases, counts seem to include people who were injured while fleeing or who experienced cuts from shattered glass, and so on. All that being said, when we analyzed a comparable sample of the worst 35 public mass shootings by total victim casualty count (fatalities + injuries), we found similar increases over time, despite using this less precise measure. Forty-nine percent of all high-casualty incidents (in which at least 16 victims were killed or wounded) from 1966 to 2019 have occurred since the start of 2010.

³ Although we considered the year 2010 the approximate inflection point of the change in the deadliness of public mass shootings, the *causes* that led to this change almost certainly occurred years earlier.

⁴ We mostly focused on the nature and impact of high-fatality attacks, which are by definition “outliers.” Overall, however, the median number of victims killed per public mass shooting was five for both the 1966–2009 and 2010–2019 time periods, which illustrates the impact of high-fatality incidents on the overall average. Not all public mass shootings have changed; in fact, many incidents from 2010 to 2019 were no more lethal than those from prior decades. A significant change in the deadliest attacks has occurred, however, and presumably in the behavior of the perpetrators who commit them.

⁵ Although we could not measure how much hatred different mass shooters felt for their victims, and whether those who espoused particularly hateful ideologies were also more motivated to kill a higher number, extreme ideological beliefs could have an important effect on homicidal intent. For instance, killers who subscribe to ideologically driven conspiracy theories and view their victims as evil or subhuman enemies who pose an existential threat may also be more prone to want to kill as many victims as possible.

⁶ We did not classify wearing a ballistic vest or purchasing large amounts of ammunition as attack strategies designed to produce high death tolls. The primary function of a ballistic vest is to protect oneself, not to harm others. And although obtaining large amounts of ammunition may indeed be associated with increased lethality, that variable seems more like a form of weapons acquisition, and we could not find reliable information on the amount of ammunition obtained by most offenders in this study.

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EXHIBIT 25
TO THE DECLARATION OF JOHN D. ECHEVERRIA

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

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STEVEN RUPP, et al., :
Plaintiffs, :
vs. : 8:17-cv-00746-JLS-JDE
XAVIER BECERRA, in his :
official capacity as Attorney :
General of the State of :
California; et al., :
Defendants. :
- - - - - x

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GARY KLECK, PH.D.
WASHINGTON, D.C.
DECEMBER 12, 2018

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FILE NO. ACOC3CB

Gary Kleck, PH.D.
December 12, 2018

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Def. Exhibit 15
Page 000584

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

- - - - - x

STEVEN RUPP, et al., :

Plaintiffs, :

vs. : 8:17-cv-00746-JLS-JDE

XAVIER BECERRA, in his :

official capacity as Attorney :

General of the State of :

California; et al., :

Defendants. :

- - - - - x

Deposition of GARY KLECK, PH.D., taken on
behalf of the Defendants, at the offices of Bradley
Arant Boult Cummings LLP, 1615 L Street, Northwest,
Washington, D.C., commencing at 9:44 a.m., Wednesday,
December 12, 2018, before KAREN YOUNG, Notary Public.

#2304

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A P P E A R A N C E S

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1 those research errors.

2 Q. Is it your opinion that right-to-carry laws
3 decrease crime?

4 A. No.

5 Q. Is that an opinion that has been advanced
6 by Professor John Lott?

7 A. Yes.

8 Q. And you do not agree with that assessment.

9 A. That's correct, I don't agree.

10 Q. In fact, you've criticized John Lott's
11 research as being, quote, garbage in and garbage out?
12 Do you recall ever saying that?

13 A. No, I do not.

14 Q. Do you recall ever saying the following,
15 quote, "Do I know anybody who specifically believes
16 with more guns, there are less crimes and they're a
17 credible criminologist, no," unquote?

18 A. Yes, I believe I said that.

19 Q. And you would agree with that statement
20 today?

21 A. Yes. Well, actually, I'd be less certain
22 about it let's say.

23 Q. Why would you be less certain about it
24 today?

25 A. Well, because I believe that was just a

1 casual statement I made in the course of a
2 conversation with a reporter, and you know, it's not
3 -- it's not based on sort of a tranquil assessment of
4 the full body of studies and their relative
5 methodological merit, but it's what you say in the
6 course of a conversation where you have to sort of
7 spontaneously react to whatever questions are pitched
8 at you by the reporter. So I make a sharp
9 distinction between what I say orally in conversation
10 with journalists and what I write down in -- in
11 scholarly articles.

12 Q. So you do believe that John Lott is a
13 credible criminologist?

14 A. No, I do not. I believe that, you know,
15 you can -- you can do research that is credible
16 without you in the course of your entire career being
17 credible, and John Lott has given reason to indicate
18 he was not credible. On the other hand, he's done
19 research that at the time was the best available work
20 on the subject.

21 So there's no contradiction between saying
22 that as a whole, a scholar has not been credible on a
23 particular topic like do shall issue laws reduce
24 crime, and yet on the other hand also saying that
25 he's done the best available research that existed at

1 a particular point in time on a particular topic.

2 Q. Okay. We'll move on to your discussion of
3 paragraph 12 in Professor Donohue's report, which you
4 begin on page 3 of Exhibit 30, your expert rebuttal
5 report. I'll give you a chance to turn to page 3 of
6 Exhibit 30. And in paragraph -- in your response to
7 paragraph 12, you state that gun massacres did not
8 fall substantially during the ten years when the
9 federal assault weapons ban was in effect, correct?

10 A. Yes.

11 Q. And what was the basis for your statement
12 that gun massacres did not fall during that period?

13 A. Work by Grant Duwe, that's swelled D-U-W-E,
14 and he's probably the nation's leading authority on
15 mass murders, and he relied in turn on the FBI's
16 supplementary homicide reports, and he basically says
17 that the trend was largely flat during the period
18 that Donohue was alluding to.

19 Q. Okay. So you referred on research -- you
20 referred on research done by Grant Duwe in arriving
21 at this opinion, and yet on page -- on page 14 of
22 Exhibit 30, you do not cite to any research by Duwe;
23 is that correct?

24 A. No, because it wasn't the only foundation
25 for it, and there were other sources that I also

60

Gary Kleck, PH.D.
December 12, 2018

Def. Exhibit 15
Page 000607

1 A. I mean, it's such a vague statement,
2 closely tracks. He doesn't even define that. I
3 mean, if he wanted to say well, the correlation is
4 very strong, he could have cited a correlation, and
5 correlations over time for large macro-level units
6 like entire nations tend to be high regardless of
7 whether there's any causal connection. So by itself,
8 the statement is both vague and not very meaningful
9 with regard to whether this association in particular
10 is a strong correlation.

11 Q. If two events are correlated and if there
12 is a correlation between them, does that make them
13 more likely or less likely that there's a causal
14 relationship between them?

15 A. More likely. Not sufficient, but more
16 likely.

17 Q. Okay. You also state in your rebuttal to
18 paragraph 57 that Professor Donohue apparently
19 seriously relied on the opinion of the executive
20 director of an organization that lobbies for assault
21 weapons bans. Do you see that?

22 A. I do.

23 Q. Can we refer to Professor Donohue's report,
24 which was marked as Exhibit 4? I'd like you to turn
25 to paragraph 25, which is where paragraph 57 is. So

159

Gary Kleck, PH.D.
December 12, 2018

Def. Exhibit 15
Page 000668

1 rebutting?

2 A. When you refer to a correlation to a
3 layperson, let's say a judge, and you don't have an
4 explicit qualifier saying this does not mean
5 causation, it's understandable people misinterpret
6 that to mean a statement that one thing causes
7 another, that in this case use of so-called assault
8 weapons increases the number of shots fired, victims
9 injured, et cetera et cetera.

10 So you sometimes have an obligation to make
11 clear what your meaning is by disabusing your
12 audience of possible misinterpretations that are
13 extremely likely, and in this case they are extremely
14 likely. There's a reason why you have to have that
15 caution, correlation is not causation. You wouldn't
16 need to say that if people didn't assume that
17 correlation does imply causation. And so there was
18 absolutely nothing in Donohue to contradict that
19 natural interpretation that many laypeople would
20 apply to his statement about a correlation.

21 Q. But going back to my question, do you
22 dispute his finding that there is a correlation
23 between the use of assault weapons and the number of
24 victims injured or killed?

25 A. No, no.

185

Gary Kleck, PH.D.
December 12, 2018

Def. Exhibit 15
Page 000681

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1 Q. You do not dispute that correlation.

2 A. No. What I dispute is any implication that
3 it's causal rather than being a spurious association
4 attributable to the fact that the lethality of the
5 aggressor's intent will affect both the number of
6 victims they hurt, number of shots fired, et cetera
7 et cetera, and their choice of weaponry.

8 Q. Do you have any empirical evidence that the
9 use of assault weapons and the number of victims
10 killed or injured is not causally related?

11 A. Well, you can't -- you can never prove a
12 negative. It's a logical impossibility. What I can
13 say is there's no affirmative evidence to indicate
14 it's anything more than a spurious association, and I
15 can be very specific about what affirmative evidence
16 would be. If you could control for the likely
17 sources of a spurious association, for example, the
18 lethality of the aggressor's intent, and then you
19 still found an association between the use of these
20 weapons and the casualty count, then you would have
21 done something in the way of affirmative evidence to
22 establish that it might be causal, but if you only
23 present the association without any further evidence,
24 it's -- there's no affirmative evidence that it's
25 anything other than a spurious association.

186

Gary Kleck, PH.D.
December 12, 2018

Def. Exhibit 15
Page 000682

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1 MR. SWEENEY: Objection.

2 BY MR. ECHEVERRIA:

3 Q. That would be an opinion that's expressed
4 in paragraph 10 of her report on page 5?

5 A. Yes.

6 Q. And nothing in your expert rebuttal report
7 rebuts Ms. Allen's conclusion that in 25 of the 27
8 mass shootings that involved an assault weapon, the
9 assault weapon used was an assault rifle rather than
10 a pistol or a shotgun; is that correct?

11 MR. SWEENEY: Objection.

12 A. I don't recall addressing that issue one
13 way or the other, so I neither confirm nor deny her
14 conclusion in that regard.

15 Q. And nothing in your expert rebuttal report
16 rebuts Ms. Allen's opinion that an average number of
17 fatalities or injuries of 46 per mass shooting with
18 an assault weapon versus 12 for those without?

19 A. No, I did not address that issue either.

20 Q. And you agree with Ms. Allen that there is
21 a correlation between the use of an assault weapon
22 and the number of fatalities that occur in a mass
23 shooting?

24 A. Yes.

25 Q. Do you have any other opinions that you

263

Gary Kleck, PH.D.
December 12, 2018

Def. Exhibit 15
Page 000728

EXHIBIT 26
TO THE DECLARATION OF JOHN D. ECHEVERRIA




Two Mass Shootings that Changed California

In 1989, a catastrophic event changed the perception of gun violence in California. A gunman took an assault rifle to Cleveland Elementary School in Stockton, where he killed five children and wounded 29 other children as well as one teacher.

The parallels between the Stockton shooting and the shooting at Sandy Hook Elementary School in Newtown, Connecticut are startling. As one news report observed, "Except for the fatal scale of the Connecticut shooting[,] the assault at

Californians were thrust back into tragedy a few years later, in the summer of 1993, when a man entered the law firm of Pettit & Martin in downtown San Francisco armed with military-style assault weapons, and walked through the office on a shooting rampage. Within minutes, he had killed eight people and wounded six more before taking his own life.

In the days following, devastated members of the San Francisco legal community joined together to find solutions to prevent future

 In the early 1990s, California's gun laws were weak and full of gaps, and the toll of gun violence across the state rose to unprecedented levels - at one point 15% higher than the national average.¹ California was facing epidemic proportions of gun violence and the impact was being felt by every community, from Redding to San Diego.

Cleveland Elementary School here featured near-identical and tragic themes: young victims, a troubled gunman and a military-style rifle."²

The Stockton shooting shocked California and the nation, igniting calls for change. Then, as now, change was not quick to come from Congress. Instead, it was California's legislature that responded to the demand for action, adopting the first assault weapons ban in the country that same year.

tragedies by forming Legal Community Against Violence, now known as the Law Center to Prevent Gun Violence.

The shooting at Pettit & Martin galvanized the resolve of legislators and supporters of commonsense gun regulation in California. In the last two decades, with the Law Center's dedicated team of attorneys leading the way, California has become a national leader in the movement for effective gun laws.

AG00018322

The Law Center: Twenty Years of Improving Safety in California

Over the last twenty years, the Law Center has been instrumental in making California safer through an innovative mix of work at the state and local levels. At the state level, we have assisted countless legislators in the development of smart legislation to protect our communities, providing research and drafting assistance, and testifying at public hearings.

With our support, California cities and counties have pioneered legislative efforts to reduce gun-related deaths and injuries and adopted over 300 innovative firearm ordinances since the mid-1990s. Significantly, this local regulatory activity has provided the catalyst for the enactment of many state laws: those to ban “junk guns,” require firearms dealers to equip



Through our extensive work and partnerships, California’s gun laws are now the strongest in the nation, and, as discussed inside, the state’s gun death rate has plummeted over the last two decades. Still, with thousands injured or killed by guns statewide every year, the Law Center’s work is far from over.

To date, we have supported the adoption of over 30 significant laws, including those to ban military-style weapons and ammunition magazines, create strong safety standards for handguns, prohibit the open carrying of unloaded firearms in public, and help law enforcement get guns out of the hands of felons, domestic abusers and other dangerous people. The state’s comprehensive and cogent gun laws place California at the forefront of gun violence prevention.

Our legal team has also been deeply involved at the local level, offering a wide variety of services to legislators and advocates looking to prevent gun violence in communities across California.

all firearms with a child-safety lock, limit handgun purchases to one per person per month, and ban 50-caliber rifles.

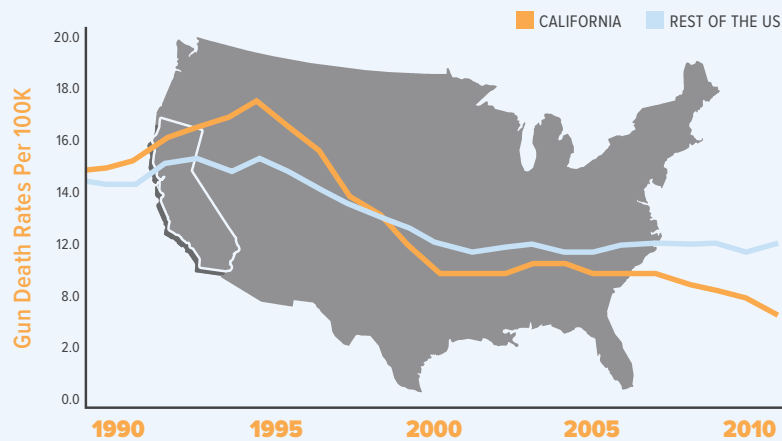
In addition to championing smart approaches to reducing gun violence, we’ve also worked to defeat gun lobby-sponsored legislation attempting to weaken California’s gun laws. Having repeatedly failed in Sacramento, the gun lobby is increasingly trying to attack California’s laws in the courts. We support jurisdictions statewide in their efforts to successfully defend good laws against these meritless legal challenges with the assistance of pro bono counsel from top national law firms.

AG00018323

Proof in the Data: Thousands of Lives Saved

Over the last twenty years, the number of people injured or killed by guns in California has decreased dramatically. In 1993, 5,500 Californians were killed by gunfire; by 2010, the most recent year for which data is available, that number had dropped to 2,935.³ In just two decades, the state's gun death rate has been cut by 56%, a reduction that translates to thousands of lives saved every single year.⁴

Gun Death Rates in California and the Nation



The rate of gun violence in California has also fallen notably compared to rest of the country. Today, California has the ninth lowest gun death rate of any state nationwide when twenty years ago, it had the thirty-fifth lowest rate.⁵

California has taken a comprehensive and courageous approach to addressing the epidemic of gun violence, and that approach has succeeded. The state's strong gun laws not only help save lives, but also reduce the trafficking of illegal guns to other states and to Mexico, protecting lives in neighboring communities.⁶

AG00018324

California: A Leader in Adopting Smart Gun Laws

The Law Center has supported numerous bills in the California Legislature to reduce gun violence, over 30 of which have been enacted into law. Some significant highlights include:



Standards for Gun Safety

- 1999** - Prohibited the manufacture or sale of handguns that lack design safety standards.
- 1999** - Required the Department of Justice to develop standards for firearm safety devices to keep children safe and prevent unauthorized access to firearms.
- 2001** - Established the Handgun Safety Certificate Requirement, requiring individuals to pass a written test and demonstrate safe handling before purchasing a handgun.
- 2003** - Required new handgun models to include "chamber load indicators" to help prevent accidental shootings.



Access to Weapons by Domestic Violence Abusers

- 1994** - Prohibited individuals subject to a domestic violence restraining order from possessing a firearm while the order is in effect.
- 2012** - Required domestic violence abusers to relinquish firearms when a protective order is served.



Guns in Public Places

- 1997** - Expanded the scope of the crime of carrying a concealed firearm in vehicles to also include people who are not driving the vehicle.
- 2011** - Prohibited individuals from openly carrying unloaded handguns in public, which was previously allowed even if the person was also carrying ammunition.
- 2012** - Expanded the ban on openly carrying unloaded guns in public to include long guns.



Preventing Gun Trafficking and Solving Gun Crimes

- 1998** - Provided comprehensive regulation of gun manufacturers to empower law enforcement in their efforts to curb trafficking.
- 1999** - Prohibited individuals from purchasing more than one handgun in a 30-day period to fight gun trafficking.
- 2001** - Established a first-of-its-kind database of individuals who legally purchased firearms but subsequently became prohibited from possessing them – empowering law enforcement to disarm dangerous people.
- 2007** - Imposed a first-in-the-nation requirement that all new handgun models manufactured for sale in California be equipped with "microstamping" technology that imprints identifying information on each cartridge case when the firearm is fired to help law enforcement to solve gun crimes.
- 2009** - Required retention of handgun ammunition sales records, and the completion of sales in a face-to-face transaction.⁷
- 2011** - Required retention of records of all rifle and shotgun sales.



Dangerous Military-Style Weapons in Our Communities

- 2000** - Prohibited the sale and manufacturing of large capacity ammunition magazines (those capable of holding more than 10 rounds).
- 1999** - Strengthened the 1989 state assault weapon ban to require a one-feature test, becoming the first state in the nation to do so, and making it harder for the gun industry to evade the law by modifying a banned weapon.
- 2004** - Became the first state to ban the manufacture, sale, and possession of massive, military-style 50-caliber firearms.

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California as a Model for Gun Safety

California has created an impressive model of strong and effective gun regulation as well as pioneered innovative approaches to this problem. In the aftermath of the shooting at Sandy Hook Elementary, state legislators across the country seeking to adopt smart new laws looked to California's example and the Law Center's expert legal support.

In the first quarter of 2013, our legal team worked with 24 states interested in new gun safety legislation and six of these states successfully implemented new firearms laws

Gun violence is not a problem without solutions. We know what works, we've seen the difference it has made in California, and we are already seeing the same success in other states. We've come a long way since 1993, and we're only getting started.

before the six month anniversary of the shooting at Sandy Hook. Connecticut, Maryland, and New York passed comprehensive packages that include laws to expand and improve background checks, limit the sale or transfer of military-style assault weapons and large-capacity ammunition magazines, require safety training and improve systems for keeping guns away from domestic violence abusers and the dangerously mentally ill. Delaware and Colorado passed laws requiring background checks on all gun sales and California immediately added enforcement teeth to its law to confiscate guns from criminals and the mentally ill.

There is still so much more we can do to prevent gun deaths and injuries in America. California will continue to lead the country in the effort to prevent gun violence, and the Law Center will continue to support efforts to implement smart gun laws in California and across the nation.

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A Unique Approach To Saving Lives

Today, the Law Center remains dedicated to preventing the loss of life caused by gun violence through a variety of unique services. The Law Center helps keep communities safe through our work with cities, counties, and states across the nation, by:

- Tracking state gun laws and all Second Amendment litigation nationally – research and analysis that is unavailable elsewhere;
- Providing trusted legal expertise on America's gun laws to legislators and advocates looking to improve the laws in their communities;
- Educating the public on the effectiveness of smart gun laws; and
- Analyzing policy strategies to empower communities and governments to pursue effective measures that are legally defensible.

The Law Center to Prevent Gun Violence exists because we believe that none of us has to live in a society where so many lives are lost to gunfire. Our twenty years of success shows that it's possible, and **that we know how to do it.**

STAND WITH US:

Together, we can prevent the loss of countless lives to gun violence. Stand up for our right to live in safe communities.

Become a Member

Your support is critical to the Law Center's efforts and helps us promote smart laws that keep guns out of the wrong hands.

Spread the Word

You understand that smart gun laws make you and your family safer, but does your neighbor? Help us by spreading the word to your friends and family. Join us on Facebook and Twitter @smartgunlaws, host a house party, or ask your employer to sponsor one of our events.

Volunteer

The Law Center needs a strong group of volunteers to assist us with gun violence prevention projects. All types of volunteers are needed if we are to bring an end to gun violence in America. Your skills are vital to this movement – **pitch in today!**

For more information or an annotated copy of this publication visit smartgunlaws.org.

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Endnotes

¹ U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, *Web-Based Injury Statistics Query & Reporting System (WISQARS), 1981-1998 Fatal Injury Report, 1981-1998*, <http://webappa.cdc.gov/sasweb/ncipc/mortrate9.html> (accessed on July 11, 2013).

² *Stockton school massacre: A tragically familiar pattern*, USA Today (Apr. 1, 2013), <http://www.usatoday.com/story/news/nation/2013/04/01/stockton-massacre-tragically-familiar-pattern-repeats/2043297/>.

³ *WISQARS, 1981-1998*, *supra*, note 1; Nat'l Ctr. for Injury Prevention & Control, U.S. Centers for Disease Control and Prevention, *Web-Based Injury Statistics Query & Reporting System (WISQARS) Injury Mortality Reports, 1999-2010, for National, Regional, and States* (Feb. 2013), http://webappa.cdc.gov/sasweb/ncipc/dataRestriction_inj.html. 2010 age-adjusted rate is 7.70 per 100k; 1993 age-adjusted rate is 17.48 per 100k.

⁴ *WISQARS, 1981-1998*, *supra*, note 1; *WISQARS, 1999-2010*, *supra*, note 3.

⁵ See *id.* These observations based on to research initially completed by Griffin Dix, Ph.D. Note: age-adjusted rates used for CA-to-CA comparisons, but for national comparisons, crude rates were used.

⁶ According to a survey conducted by Mayors Against Illegal Guns, California is the fifth lowest supplier (per capita) of guns recovered in crimes in other states. *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking*, Mayors Against Illegal Guns, 9 (Sept. 2010), available at www.tracetheguns.org (follow "Download the Full Report" hyperlink). In addition, California supplies crime guns to Mexico at a far lower rate than the other states along the Mexican border. Issue Brief: *The Movement of Illegal Guns Across the U.S.-Mexico Border*, Mayors Against Illegal Guns, 3 (Sept. 2010), available at www.tracetheguns.org (follow "Learn how American guns are fueling the Mexican drug war" hyperlink).

⁷ In 2010, a Superior Court in Fresno issued an order finding that the definition of "handgun ammunition" in this law was ambiguous, and prevented it from being implemented. That ruling is on appeal, however, and proposals are before the State Legislature that would address the ruling. *Parker v. California*, No. F062490 (Cal. Ct. App. argued July 10, 2013).

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