

17-56081

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VIRGINIA DUNCAN, et al,

Plaintiff and Appellees,

v.

**XAVIER BECERRA, in his Official
Capacity as Attorney General of the State
of California,**

Defendant and Appellant.

On Appeal from the United States District Court
for the Southern District of California

No. 17-cv-1017-BEN-JLB
The Honorable Roger T. Benitez, Judge

**APPELLANT'S EXCERPTS OF RECORD,
VOLUME XI, ER 2379-2492**

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9 **SOUTHERN DISTRICT OF CALIFORNIA**

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11 DAVID MARGUGLIO,
CHRISTOPHER WADDELL,
12 CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,
13 a California corporation,

14 Plaintiffs

15 v.

16 XAVIER BECERRA, in his official
capacity as Attorney General of the
17 State of California; and DOES 1-10,

18 Defendants.
19
20

Case No: 17-cv-1017-BEN-JLB

**DECLARATION OF MASSAD
AYOOB IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION;
EXHIBITS A-C**

Date: June 13, 2017
Time: 10:00 a.m.
Dept: 5A
Judge: Hon. Roger T. Benitez

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DECLARATION OF MASSAD AYOOB

1. I, Massad Ayoob, am not a party in the above-titled action. I am over the age of 18, have personal knowledge of the facts and events referred to in this Declaration, and am competent to testify to the matters stated below.

2. I have been a competitive handgun shooter since the late 1960s, a published writer in the field of defensive firearms since 1971, and a firearms instructor since 1972. My resume is attached as **Exhibit A**. I have served for more than thirty years each as handgun editor for Guns magazine and law enforcement editor for American Handgunner magazine. I served for 19 years as chair of the Firearms and Deadly Force Training Committee for the American Society of Law Enforcement Trainers, and have served for 14 years on the advisory board of the International Law Enforcement Educators and Trainers Association. I have served as an expert witness on firearms, firearms training standards, deadly force training standards, dynamics of violent encounters, and related subject matter areas since 1979. I have also been an instructor in disarming and firearm retention (i.e., the countering of a disarming attempt) since 1980 and became a trainer of other instructors in those disciplines in 1990.

3. In my role as a self-defense and weapons expert, including as an expert witness, I have researched incidents of defensive gun uses by law-abiding citizens, including by both private citizens and law enforcement officers. My opinions about defensive guns uses provided herein are based, in part, on the information I have learned during such research.

4. A true and correct copy of a excerpt from my book, *The Complete Book of Handguns* 87, 89-90 (2013) is attached as **Exhibit B**.

Ten Round Magazine Limit: Disparate Impact on Law-Abiding Citizens

5. Limiting the law-abiding citizen to a magazine of ten rounds or less will clearly limit their ability to protect themselves from violent criminals in certain situations. Such limits on magazine capacity are likely to impair the ability of

1 citizens to engage in lawful self-defense in those crime incidents necessitating that
2 the victim fire many rounds in order to stop the aggressive actions of offenders.

3 6. An illustrative, real-world example is the case of Susan Gonzalez. She
4 and her husband were attacked by two intruders within their home one night. The
5 attackers shot both of them multiple times, but she was able to escape to their
6 bedroom where she located her husband's semi-automatic pistol, while her husband
7 bravely physically fought the attackers off into the front room. She entered the
8 room where the attackers were struggling with her husband, and, not wanting to
9 shoot her husband, discharged three warning shots in the air, hoping the attackers
10 would flee. They did not.

11 7. One attacker charged toward her, causing her to flee back to the
12 bedroom. From an opening in the bedroom she could see the attacker lying in wait
13 for her in the kitchen. So she used her knowledge of the house to exit the bedroom
14 and approach the attacker from behind via another door leading to the kitchen. She
15 pointed the pistol at the attacker and discharged seven rounds in his direction,
16 gravely wounding him, but not immediately killing him.

17 8. The wounded attacker was still able to exit the house aided by his
18 accomplice. The other attacker reentered the house and demanded Mr. Gonzalez
19 give him keys to an automobile to escape. During his search for keys in the
20 bedroom he located Mrs. Gonzalez who was out of ammunition. He put the gun to
21 her temple and demanded the keys, which she gave him.

22 9. Fortunately, the attacker decided to spare Mrs. Gonzalez's life, but he
23 could have just as easily pulled the trigger. Had she had more rounds in her
24 magazine, maybe she would not have had to leave her fate to chance. It is
25 impossible to say how many more cases where victims lost (or almost lost, as in
26 Mrs. Gonzalez's case), due to having an insufficient amount of ammunition readily
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1 available in a self-defense firearm.¹

2 10. The published account of this shooting has Mrs. Gonzalez firing three
3 shots into the ceiling, then seven at the homicidal intruder, and then running dry.
4 This would indicate only ten cartridges at her disposal. The gunfight occurred
5 during the ten-year period when the Federal "high capacity magazine ban" was in
6 force. The Ruger 9mm pistol she used, designed to hold fifteen cartridges in the
7 magazine and one more in the firing chamber, was sold during the ten year period
8 of that ban with magazines which could only hold ten rounds. In such a situation,
9 five more shots can make the difference between neutralizing the murderous threat,
10 and being rendered helpless with an empty gun at the hands of a law-breaking,
11 homicidal, armed felon.

12 11. It is difficult to say exactly how many private citizens have actually
13 fired more than ten rounds in a self-defense shooting, because the amount of rounds
14 fired in self-defense shoots, from my experience in researching such incidents, is
15 very often an omitted fact in written accounts of such defensive gun uses.
16 Oftentimes the accounts just say "multiple shots fired." That could mean more or
17 less than ten, it just cannot be known. This does not seem to be the case, however,
18 with shootings involving police officers, for which, generally the number of shots
19 that were fired is documented. In my experience researching such shootings,
20 officers often fire more than ten rounds. And, cases where an individual officer
21 fired less than 10 rounds, but there were multiple officers shooting, can be fairly
22 characterized as involving more than ten rounds, if the multiple officers involved
23 fired over ten rounds in aggregate.

24 12. Officer-involved shootings are relevant in evaluating private citizen
25 shootings, for the simple reason that private citizens arm themselves for protection

27 ¹ Robert A. Waters, *Guns Save Lives: True Stories of Americans Defending*
28 *Their Lives with Firearms* 149-59 (2002).

1 against the exact same criminals the police are armed to deal with. Tim Gramins of
2 the Skokie, Illinois police department was in a shootout with an armed robber
3 whose car he had pulled over. The gunman came out shooting. The gunman was
4 armed with two semiautomatic pistols, one on his person and one snatched from his
5 car, both of which he fired during the gun battle. He also had in his possession a
6 semiautomatic rifle in his car, which he did not deploy. Gramins fired 33 rounds
7 before the gunman, now fatally wounded, stopped firing. The suspect had absorbed
8 14 hits by the time he was neutralized, and the officer had been forced to reload
9 twice. The officer was armed with a Glock Model 21 .45 caliber pistol, loaded with
10 a magazine containing 12 rounds and a thirteenth in the firing chamber. He also had
11 two additional magazines containing 12 rounds each. The officer was down to the
12 last few cartridges in his last magazine at the time he finally won the gunfight.
13 Gramins was wounded in the shooting. As a result of this incident, he now carries a
14 higher-capacity handgun with more spare magazines.²

15 13. While, as mentioned, the number of rounds fired in a self-defense shoot
16 involving a private citizen is usually not documented, there are nevertheless a
17 number of confirmed accounts of private citizens discharging more than ten rounds
18 during a criminal attack. For example, a Baltimore man discharged sixteen rounds
19 from a handgun he was licensed to carry when he was physically attacked by three
20 men, one of whom allegedly had a gun, while in his car carrying thousands of
21 dollars in cash to the bank. One of the assailants died, while the other two fled, one
22 of whom was arrested at a nearby hospital with a bullet wound in the hand.³ In a

23
24 ² Charles Remsberg, *Why One Cop Carries 145 Rounds of Ammo on the Job*,
25 *PoliceOne* (Apr. 17, 2013), <http://www.policeone.com/patrol-issues/articles/6199620-Why-one-cop-carries-145-rounds-of-ammo-on-the-job/>. (last updated Apr. 17, 2013)
26 (Barvir Decl., Ex. VV).

27 ³ Gus G. Sentementes & Julie Bykowicz, *Documents Detail Cross Keys*
28 *Shooting* (Mar. 21, 2006), http://articles.baltimoresun.com/2006-03-21/news/0603210220_1_beckwith-police-documents-robbery (Barvir Decl., Ex. WW).

1 similar situation, a South Carolina gun store owner who lived in the rear of his shop
2 was awoken by three men, at least one of them armed, crashing a van into his store.
3 When going to investigate, one of the robbers yelled to another to kill him, so the
4 owner opened fire, discharging thirty rounds, hitting all three attackers, mortally
5 wounding one and causing the rest to flee.⁴

6 14. There is also the account of Travis Dean Neel. While sitting in a traffic
7 jam behind an officer with a car pulled over, an occupant emerged from the
8 detained vehicle and opened fire on the officer. Neel responded by retrieving his
9 pistol with three magazines from his backseat and opened fire on the assailant,
10 which resulted in him being fired upon and an ensuing gunfight, during the course
11 of which he prevented the assailants from “finishing off” the officer and (with
12 assistance from an off-duty police officer who joined him in the gunfight with his
13 own handgun) from car-jacking a woman to get away, which may have saved that
14 woman's life. Despite Neel using all three of his fifteen-round magazines, and the
15 several shots fired by the off-duty officer, the assailants were still able to flee, but
16 could just as easily have decided to continue their attack and overcome Neel.⁵

17 15. Ronald Honeycutt was delivering pizzas when approached by a man
18 with a gun from behind. He turned and fired when he saw a gun in the man's hand,
19 discharging all of his magazine's fifteen rounds, which still did not immediately
20 stop the threat, as the attacker remained upright with the gun pointed at him. But the
21 attacker eventually succumbed to his wounds before being able to rack a round into
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23
24 ⁴ *Gun Shop Owner Shoots, Kills Man During Attempted Robbery*, WIS TV
25 (Aug. 9, 2012), [http://www.wistv.com/story/19236842/gun-shop-owner-shoots-](http://www.wistv.com/story/19236842/gun-shop-owner-shoots-kills-man-during-attempted-robbery)
26 [kills-man-during-attempted-robbery](http://www.wistv.com/story/19236842/gun-shop-owner-shoots-kills-man-during-attempted-robbery) (last updated Aug. 19, 2012, 8:22 AM) (Barvir
Decl., Ex. XX).

27 ⁵ Robert A. Waters, *The Best Defense: True Stories of Intended Victims Who*
28 *Defended Themselves with a Firearm*, 23-40 (1998).

1 the firing chamber of his pistol, which he had forgotten to do, and is probably why
2 he was pointing the gun at Honeycutt but never discharged a single round.⁶

3 16. Additionally, in California, consider the well-documented multiple
4 gunfights with armed robbers experienced by Los Angeles watch shop owner Lance
5 Thomas.⁷ More than one of his five shooting incidents required him to fire more
6 shots than Penal Code section 32310 would allow to be in any one handgun. In one
7 of those incidents, reports have Thomas firing approximately nineteen shots before
8 the last of his multiple opponents ceased attempting to murder him.⁸

9 17. Thomas's strategy was to stage multiple loaded handguns every few
10 feet in his workspace. He could do this, as a sole proprietor with a small shop, a
11 workspace closed to the public, and with buzz-in entry. A pair of brothers used the
12 same strategy in defending themselves against two violent career criminals robbing
13 their Richmond, Virginia jewelry store. They went through multiple firearms staged
14 throughout the store placed in anticipation for such an event.⁹ The strategy of
15 staging multiple firearms employed by these shopkeepers is a unique circumstance,

16
17 ⁶ Chris Bird, *Thank God I Had A Gun: True Accounts of Self-Defense* 251-74
(2007).

18 ⁷ WIS TV, *supra* n. 4.

19 ⁸ See Nieson Himmel, *Police Say Watch Shop Owner Kills 4th, 5th Suspects*
20 (Feb. 21, 1992), [http://articles.latimes.com/1992-02-21/local/me-2663_1_watch-](http://articles.latimes.com/1992-02-21/local/me-2663_1_watch-shop-owner)
21 [shop-owner](http://articles.latimes.com/1992-02-21/local/me-2663_1_watch-shop-owner) (Barvir Decl., Ex. YY); Massad Ayoob, *Why Good People Need*
22 *Semiautomatic Firearms and "High Capacity" Magazines, Part I* (Dec. 29, 2012),
23 [http://backwoodshome.com/blogs/MassadAyoob/2012/12/29/why-good-](http://backwoodshome.com/blogs/MassadAyoob/2012/12/29/why-good-people-need-semiautomatic-firearms-and-high-capacity-magazines-part-I/)
24 [people-need-semiautomatic-firearms-and-high-capacity-magazines-part-I/](http://backwoodshome.com/blogs/MassadAyoob/2012/12/29/why-good-people-need-semiautomatic-firearms-and-high-capacity-magazines-part-I/) (Barvir
25 Decl., Ex. UU); Massad Ayoob, *5 Gunfighting Myths Debunked*, *Personal Defense*
26 *World* (Oct. 14, 2014), [http://www.personaldefenseworld.com/](http://www.personaldefenseworld.com/2014/10/5-gunfighting-myths-debunked-massad-ayoob/#armed-and-ready)
27 [2014/10/5-gunfighting-myths-debunked-massad-ayoob/#armed-and-ready](http://www.personaldefenseworld.com/2014/10/5-gunfighting-myths-debunked-massad-ayoob/#armed-and-ready) (Barvir
28 Decl., Ex. SS).

29 ⁹ *Jewelry Store Burglarized, Scene of Deadly 1994 Robbery Attempt*,
30 nbc12.com (2012), available at
31 [http://www.nbc12.com/story/16445849/jewelry-store-burglarized-scene-of-](http://www.nbc12.com/story/16445849/jewelry-store-burglarized-scene-of-deadly-1994-robbery-attempt)
32 [deadly-1994-robbery-attempt](http://www.nbc12.com/story/16445849/jewelry-store-burglarized-scene-of-deadly-1994-robbery-attempt) (Barvir Decl., Ex. ZZ).

1 however, it would not be practical or safe for most shopkeepers or for homeowners,
2 due to the danger of unexpected children wandering behind the counter or
3 unexpectedly arriving at the given home. Thus, most private citizens could not be
4 expected to have multiple handguns in multiple locations in their home or on their
5 person in order to engage in a defensive gun use.

6 18. The homeowner who keeps a defensive firearm and is awakened in the
7 night by an intruder is most unlikely to have time to gather spare ammunition. The
8 sudden and unpredictable nature of such attacks, and their occurring in relatively
9 confined spaces, generally do not permit gathering multiple firearms or magazines.
10 Ideally, one hand would be occupied with the handgun itself, and the other, with a
11 telephone to call the police. And, assuming they even had time for a magazine
12 change, most people do not sleep wearing clothing that would allow them to stow
13 spare magazines, etc. on their person. They would have only what was in the gun.

14 19. Most plainclothes police officers do not find it practical to carry
15 multiple handguns, let alone private citizens. Any suggestion that private citizens
16 simply carry more guns or more ammunition feeding devices would, for the reasons
17 stated above, be impractical.

18 20. Criminals bent on causing harm, on the other hand, even assuming they
19 were impeded from obtaining over ten-round magazines by California Penal Code
20 section 32310, could simply arm themselves with multiple weapons, and often do.

21 21. Criminals have time to assess and plan shootings, whereas victims do
22 not. Whitman, the Texas Tower mass murderer, literally brought a large box of
23 rifles, handguns, a shotgun and ammunition to his sniper perch.¹⁰ Harris and
24 Klebold had four firearms between them at Columbine.¹¹ Holmes in Aurora brought

25
26 ¹⁰ The UT Tower Shooting, Tex. Monthly, *available at*
<http://www.texasmonthly.com/topics/ut-tower-shooting> (Barvir Decl., Ex. AAA).

27
28 ¹¹ Mark Obmascik, Marilyn Robinson & David Olinger, *Columbine - Tragedy*
and Recovery: Officials Say Girlfriend Bought Guns, denverpost.com (Apr. 27,

1 a rifle, shotgun, and pistol into the theater.¹² Hassan was armed with a pistol and a
2 revolver at Fort Hood.¹³ Lanza entered the elementary school in Newtown,
3 Connecticut armed with a rifle and two pistols, leaving a shotgun in his car.¹⁴ The
4 mass murderer Cho entered Virginia Tech armed with two pistols and a backpack
5 full of magazines.¹⁵ The Isla Vista attack was perpetrated by a man carrying two
6 knives and three handguns.¹⁶ The Umpqua Community College shooter carried five
7 handguns with him.¹⁷ The San Bernardino terrorists each had a semi-automatic rifle

8
9 1999), available at <http://extras.denverpost.com/news/shot0427a.htm> (Barvir Decl.,
10 Ex. BBB).

11 ¹² Rong Gong Lin II, *Gunman Kills 12 at 'Dark Knight Rises' Screening in*
12 *Colorado*, L.A. Times (Jul. 20, 2012), available at
13 [http://www.latimes.com/news/nation/nationnow/la-na-nn-dark-knight-](http://www.latimes.com/news/nation/nationnow/la-na-nn-dark-knight-shooting-20120720.0.2147749.story#axzz2nDkU7CWB)
14 [shooting-20120720.0.2147749.story#axzz2nDkU7CWB](http://www.latimes.com/news/nation/nationnow/la-na-nn-dark-knight-shooting-20120720.0.2147749.story#axzz2nDkU7CWB) (Barvir Decl., Ex. CCC).

15 ¹³ Associated Press, *Ft. Hood shooter Nidal Hasan Used Private,*
16 *Legally-bought Pistol - Not Military Weapon - In Rampage*, N.Y. Daily News (Nov.
17 7, 2009), available at
18 [http://www.nydailynews.com/news/national/ft-hood-shooter-nidal-hasan-](http://www.nydailynews.com/news/national/ft-hood-shooter-nidal-hasan-private-legally-bought-pistol-military-weapon-rampage-article-1.414799)
19 [private-legally-bought-pistol-military-weapon-rampage-article-1.414799](http://www.nydailynews.com/news/national/ft-hood-shooter-nidal-hasan-private-legally-bought-pistol-military-weapon-rampage-article-1.414799) (Barvir
20 Decl., Ex. DDD).

21 ¹⁴ Steve Almasy, *Newtown Shooter's Guns: What We Know*, cnn.com (last
22 updated Dec. 19, 2012 10:11 a.m. EST), available at
23 <http://www.cnn.com/2012/12/18/us/connecticut-lanza-guns> (Barvir Decl., Ex. EEE).

24 ¹⁵ Virginia Tech Review Panel, *Mass Shootings at Virginia Tech 16, 2007:*
25 *Report of the Review Panel* 89 (Aug. 2007), available at
26 <http://www.governor.virginia.gov/tempcontent/techPanelReport-docs/FullReport.pdf>.
27 (Barvir Decl., Ex. GGG).

28 ¹⁶ *2014 Isla Vista Killings*, Wikipedia (last updated May 25, 2017 to correct
typo), available at [http://www.latimes.com/local/lanow/la-me-ln-isla-vista-document-](http://www.latimes.com/local/lanow/la-me-ln-isla-vista-document-20140524-story.html)
[20140524-story.html](http://www.latimes.com/local/lanow/la-me-ln-isla-vista-document-20140524-story.html); see also https://en.wikipedia.org/wiki/2014_Isla_Vista_killings
(Barvir Decl., Ex. HHH).

¹⁷ *Umpqua Community College Shooting*, Wikipedia (last updated May 25,
2017 to undo prior revision), available at
https://en.wikipedia.org/wiki/Umpqua_Community_College_shooting (Barvir Decl.,

1 and handgun.¹⁸ Mateen likewise brought a semi-automatic rifle and handgun with
2 him to perpetrate the Pulse nightclub massacre in Orlando.¹⁹

3 22. None of these murderers' victims had planned to repel an attack by a
4 perpetrator with multiple firearms.

5 23. The likelihood of the mass murderer arriving on scene with multiple
6 firearms also largely negates the theory that with fewer rounds in the gun, the killer
7 could be more easily disarmed and subdued by unarmed citizens when he first ran
8 empty, before he could reload. I have written a piece explaining why this theory is
9 of dubious merit. A true and correct copy is attached as **Exhibit C**. In sum, Hassan,
10 Holmes, Lanza, or Cho simply could have drawn a second (or third) gun that they
11 had on their persons and shot whoever attempted to grab the empty one.

12 24. The virtuous citizen, by contrast, cannot practically be expected to have
13 accessible that many guns or that much ammunition at a moment's notice. The
14 victimized citizen is the one who is, therefore, most deleteriously impacted by the
15 magazine capacity limitation. If he or she must use the gun to protect self and
16 family, they will most likely have only the ammunition in the gun with which to
17 fend off determined, perhaps multiple, attackers.

18 25. Virtuous citizens buy their guns to protect themselves from the same
19 criminals police carry guns to protect the citizens, the public, and themselves from.
20 Therefore, armed citizens have historically modeled their choice of firearms on

21 _____
22 Ex. III).

23 ¹⁸ Spencer Kimball, *San Bernardino: Guns, Mass Shootings and Fears of*
24 *Terrorism*, [www.dw.com](http://www.dw.com/en/san-bernardino-guns-mass-shootings-and-fears-of-terrorism/a-18894313) (Apr. 12, 2015), available at
25 [http://www.dw.com/en/san-bernardino-guns-mass-shootings-and-fears-of-
terrorism/a-18894313](http://www.dw.com/en/san-bernardino-guns-mass-shootings-and-fears-of-terrorism/a-18894313) (Barvir Decl., Ex. JJJ).

26 ¹⁹ Bart Jansen, *Weapons Gunman Used In Orlando Shooting Are*
27 *High-Capacity, Common*, USA Today (June 14, 2016), [https://www.usatoday.com/
story/news/2016/06/14/guns-used-kill-49-orlando-high-capacity-common-weapons/8](https://www.usatoday.com/story/news/2016/06/14/guns-used-kill-49-orlando-high-capacity-common-weapons/85887260/)
28 [5887260/](https://www.usatoday.com/story/news/2016/06/14/guns-used-kill-49-orlando-high-capacity-common-weapons/85887260/) (Barvir Decl., Ex. KKK).

1 what police carry. The vast majority of California law enforcement officers carry
2 pistols with double-stack magazines whose capacities exceed those permitted under
3 California Penal Code section 32310.

4 26. The on-duty, uniformed police officer generally will be armed with a
5 service pistol containing a detachable magazine holding more than ten rounds, and
6 generally two spare magazines holding more than ten rounds on the uniform belt.
7 He or she will normally be wearing body armor, have immediate access to a loaded
8 shotgun and/or loaded patrol rifle with magazines holding more than ten rounds in
9 the patrol car, and will have instant radio access to fellow officers and dispatch if
10 backup help is needed.

11 27. The off-duty officer and the law-abiding citizen alike are not likely to
12 have that volume of spare ammunition on their person or elsewhere readily
13 accessible. They are not likely to be wearing body armor, nor to be in reach of a
14 rifle or shotgun. Their only communication to potential backup will be by phone,
15 relayed through Police Dispatch to responding officers. Thus, for them, the ability
16 to have a pistol already loaded with a significant amount of ammunition is all the
17 more important.

18 28. It takes even a world champion speed shooter a full second to reload
19 with a fresh magazine. A highly skilled police officer or competitive shooter may
20 be able to accomplish a reload in two seconds. Most people take considerably
21 longer; especially someone who is under the mental duress typically experienced
22 during an attack. Changing a magazine is a fine motor skill, the type of skill which
23 degrades severely in human beings under stress due to vasoconstriction (loss of
24 blood flow to the extremities) and also due to tremors induced by
25 internally-generated adrenaline (epinephrine). This is a well-known physiological
26 reaction that has been defined as the "fight or flight" response in the medical
27 literature and training literature for a century or longer, by Dr. Walter Cannon at
28 Harvard Medical School before World War I.

1 29. By contrast, simply pulling the trigger again on a pistol that still has
2 more ammunition in it can be accomplished in a fraction of a second. Based on my
3 experience in self-defense scenarios, fractions of seconds can mean the difference
4 between the victim successfully repelling an attacker and the victim being subdued.
5 Thus, a magazine change for the person being attacked could be the difference
6 between life and death.²⁰ The same, however, is not generally true for the attacker.
7 The loss of time for a magazine change is generally of little consequence for the
8 attacker. This is because it is the attacker who gets to choose when, where, how,
9 and whom to attack. So the attacker is not burdened by the surprise and shock
10 factor that the victim is, as explained above, generally prepared for the
11 confrontation with large amounts of arms and ammunition. This is demonstrated by
12 the multiple mass shootings where the attacker made magazine changes without
13 being subdued. Perhaps the most illustrative example is the Virginia Tech shooting,
14 where the attacker carried with him seventeen magazines for his two
15 semi-automatic pistols, from which he fired 174 rounds.²¹ At least five of those
16 magazines had a capacity of only ten rounds and would be legal under California
17 Penal Code section 32310.²² While it cannot be said exactly how many magazine
18 changes he made during what was the deadliest mass shooting in the country's
19 history, based on the number of rounds fired and the fact that authorities found
20 seventeen empty magazines at the scene, he had to have made several reloads.²³
21 Another example is the Orlando Pulse Nightclub shooting, where the attacker

22
23 ²⁰ Jacob Sullum, *The Threat Posed by Gun Magazine Limits* (Jan. 13, 2016),
24 available at
25 <http://reason.com/archives/2013/01/16/the-threat-posed-by-gun-magazine-limits>
(Barvir Decl., Ex. TT).

26 ²¹ Virginia Tech Review Panel, *supra* n. 15, at 92 (Barvir Decl., Ex. GGG).

27 ²² *Id.*

28 ²³ *Id.*

1 carried both a Sig Sauer rifle with a 30-round capacity magazine and a Glock 17
2 pistol with a 17-round capacity magazine.²⁴ It has been reported that the shooter
3 fired over 202 rounds during his attack.²⁵ Assuming the attacker used both firearms,
4 and based upon the number of rounds fired, the attacker would have been forced to
5 reload his firearms (and possibly magazines) on at least 5 separate occasions.
6 Despite being in a confined space surrounded by hundreds of men who he was
7 murdering one-by-one, at no point during the attack did anyone in the night club
8 tackle or otherwise subdue the attacker during the several times when he was forced
9 to reload.

10 30. Supporters of the magazine capacity limitation will undoubtedly point
11 to some firearm expert who is comfortable with an eight- or nine-shot pistol, or
12 even a five- or six-shot revolver. It should be noted, however, that the operative
13 term there is “expert.” The individual who has spent a lifetime training in shooting,
14 and may fire hundreds or even thousands of shots on the range per month, has
15 developed a level of skill and confidence that is not practical to expect from the
16 average police officer, let alone the average law-abiding citizen who keeps a
17 firearm in the home or on his person for protection of self and family.

18 **Disparate Impact on the Disabled**

19 31. A particular subset of law-abiding citizens who are disparately,
20 negatively impacted by California Penal Code section 32310 is the physically
21 disabled. This is true of many categories of the physically challenged.
22
23

24 ²⁴ Jansen, *supra* n. 19 (Barvir Decl., Ex. KKK).

25 ²⁵ WFTV-Orlando, *Law Enforcement Source: 202 Rounds Fired During Pulse*
26 *Nightclub Shooting in Orlando*, wscotv.com (Jun. 13, 2016), available at
27 [http://www.wsoctv.com/news/trending-now/law-enforcement-source-202-](http://www.wsoctv.com/news/trending-now/law-enforcement-source-202-rounds-fired-during-pulse-nightclub-shooting-in-orlando/340948566)
28 [rounds-fired-during-pulse-nightclub-shooting-in-orlando/340948566](http://www.wsoctv.com/news/trending-now/law-enforcement-source-202-rounds-fired-during-pulse-nightclub-shooting-in-orlando/340948566). (Barvir Decl.,
Ex. LLL).

1 32. Over the last twelve years, we have seen many war veterans joining the
2 amputee community. Those who have lost fingers or a hand will have great
3 difficulty reloading an empty gun if a ten-round magazine does not prove sufficient
4 to defeat an attacker. Work-related injuries such as carpal tunnel syndrome can
5 greatly slow ability to reload. So can many of the infirmities of age: rheumatism,
6 arthritis, bursitis, etc.

7 33. The wheelchair-bound individual, and many more mobility-challenged
8 individuals (back issues, ankle issues, knee issues, etc.), cannot run to cover to
9 reload. They will be caught in the open if they have to reload in a fight with one or
10 more armed criminals, and thus will become totally helpless as soon as their
11 California Penal Code section 32310-mandated ten-shot magazine is depleted.

12 34. Thus, in conclusion, study of events in the real world indicates that
13 California Penal Code section 32310's restriction on magazine capacity can be
14 expected to have little, if any, effect in reducing casualties due to intentional mass
15 murder. However, law-abiding citizens, certain off-duty and retired criminal justice
16 personnel, families of criminal justice personnel, recipients of death threats,
17 stalking victims, and people working in places of business prone to armed robbery,
18 will be severely disadvantaged by California Penal Code section 32310 in terms of
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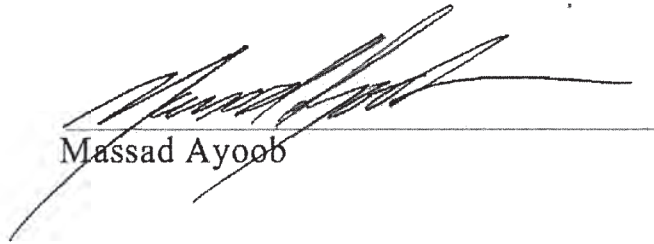
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1 their ability to lawfully protect themselves and others. This impact will be
2 particularly severe upon members of such groups who are physically disabled.

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

4 Executed within the United States on May 19, 2017.

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Massad Ayoob

EXHIBIT A

Curriculum Vitae, Massad F. Ayoob

Areas of Expertise

Dynamics of violent encounters, training standards for safe weapons handling (law enforcement/civilian), training standards of firearms and use of force (police/civilian), homicide/use of force investigation, personal and professional security, weapon retention/disarming, law enforcement internal investigation/discipline.

Teaching Experience

Director, Massad Ayoob Group, 2009-present.

Director, Lethal Force Institute, 1981-2009.

Chair of firearms committee, American Society of Law Enforcement Trainers (ASLET), 1987-2007. Also served on Ethics Committee. Led annual Panel of Experts on firearms/deadly force issues at ASLET's international seminars.

Special Instructor, Chapman Academy of Practical Shooting, 1981-88. Defensive Combat Shooting; Judicious Use of Deadly Force; Advanced Officer Survival Tactics.

International Instructor, PR-24 baton; has lectured several times at annual international seminar. Trains other instructors and trainers of instructors.

Advisory Board member, International Law Enforcement Educators' and Trainers' Association. Have lectured there on investigation and management of police use of force cases at all Annual Meetings since the organization's inception in 2003.

National Instructor, Weapon Retention & Disarming, National Law Enforcement Training Center. Trains other instructors and trainers of instructors. 1990-2009.

Assistant professor teaching weapons and chemical agents, Advanced Police Training Program of New Hampshire, 1974-77.

Co-instructor (w/former world pistol champion Ray Chapman) of Advanced Officer Survival Seminars for the Police Marksman Association.

International Instructor, Persuader Mini-Baton, certified by Joe Truncale.

Instructor, Kubotan self-defense, certified by Soke Takayuki Kubota.

National Instructor, Telescoping baton, certified by CASCO (baton manufacturer).

Instructor, straight baton, certified by COPSTK (baton manufacturer).
Has taught for national, international, and regional seminars of

FBI. Albuquerque Office. Use of force/Survival. 2012.

International Association of Law Enforcement Firearms Instructors. Numerous annual meetings.

Regional seminars for CLE credit on defending deadly force cases (NACDL; Mass. CDL Assn.).

International Homicide Investigators' Seminar. Investigation of officer-involved shootings and characteristics of self-defense shootings.

McGill University School of Medicine. Visiting lecturer on medico-legal aspects of gunshot and knife wounds.

Officer survival tactics taught at: DEA National Academy; Ordnance Expo, Los Angeles; National Tactical Invitational; New England SWAT Seminar; Metro-Dade Police Academy; DEA/Miami.

Personal Training

Smith & Wesson Academy: Advanced Combat Shooting (1st in class), Instructor course; Instructor Update (twice); Officer Survival Course (1st in class); Weapon Retention instructor course; advanced revolver shooting course.

Glock: Glock Instructor Course; Glock Armorer Course.

Firearms Instructor Courses: National Rifle Association.

Ordnance Expo: Firearms and Ballistic Evidence; Officer Involved Shooting Investigation; Advanced Officer Involved Shooting Investigation; Officer Survival; Management of Barricaded Suspects.

International Police Academy: Defensive Tactics (Unarmed Combat and Restraint) Instructor Course, rated Master Instructor by sensei James Morell.

NYPD: "Hostage Negotiation for Supervisors", "Post Shooting Tactics", "House Clearing Techniques", "Off Duty Confrontation Tactics", "Summary of Violent Encounter Patterns", "Police Shotgun Program."

Advanced Homicide Investigation. By Vern Geberth, NYPD Ret., author of "Practical Homicide Investigation."

International Homicide Investigators' Seminar (2 occasions).

Medical/Legal Death Investigation (Dade County Medical Examiner's Office).

Americans for Effective Law Enforcement : "Police Civil Liability Seminar."

American Society of Law Enforcement Trainers. "PPCT: Pressure Point Control Tactics ," taught by Bruce Siddle.

Federal Law Enforcement Training Center: BOSS program including officer survival, intelligence briefings on outlaw bike gangs, booby traps, counter-ambush tactics, arrest techniques.

Escrima (stick- and knife-fighting), Grandmaster Remy Presas.

Knife/Counter-Knife courses: Master Paul Vunak, Hank Renhardt, Sensei Jim Maloney, Michael de Bethencourt.

Has studied personally with world handgun champions Ray Chapman, Rob Leatham, Jerry Miculek, and Frank Garcia in advanced shooting programs.

Has studied special units and their training on-site, including:

NYPD Firearms & Tactics Unit, Emergency Services Unit, Armed Robbery Stakeout Unit.

LAPD SWAT, Firearms Training Unit.

FBI Firearms Training Unit.

Metro-Dade Police Firearms/SWAT Training Unit

Illinois State Police Ordnance Section.

NH State Police SWAT, EVOG, Firearms Training.

Kentucky State Police, Firearms Training and SRT Training.

Arizona Highway Patrol Firearms Training.

London, England Metropolitan Police firearms training and special services unit (D.11, PT-17, SO-19).

Has reviewed or audited numerous other law enforcement firearms training programs.

Publication Credits

Books:

"Fundamentals of Modern Police Impact Weapons," Charles C. Thomas, Publishers, 1978.

"In the Gravest Extreme: the Role of the Firearm in Personal Protection," Police Bookshelf, 1979.

"Hit the White Part," Police Bookshelf, 1982.

"The Truth About Self Protection," Bantam, 1983.

"StressFire," Police Bookshelf, 1984.

"StressFire II," Advanced Combat Shotgun," Police Bookshelf, 1992.

"The Semiautomatic Pistol in Police Service and Self Defense," Police Bookshelf, 1988.

"Ayoob Files: the Book," Police Bookshelf, 1995.

"Complete Book of Handguns," Volume 10 (1993) with completely new volume produced annually through 2009, Harris Publications.

"Gun Digest Book of Combat Handgunnery, Fifth Edition," Krause Publications, 2002.

"Gun Digest Book of SIG-Sauer Pistols," Krause Publications, 2004.

"Gun Digest Book of Beretta Pistols," Krause Publications, 2005.

"Gun Digest Book of Combat Handgunnery, Sixth Edition," Krause Publications, 2007.

"Gun Digest Book of Concealed Carry," Krause Publications, 2008.

"Massad Ayoob's Greatest Handguns of the World," Krause Publications, 2010.

"Gun Digest Book of Concealed Carry," Second Edition, Krause, 2012

"Combat Shooting With Massad Ayoob," Krause, 2011

"Complete Book of Handguns," annual editions now through 2013

Monographs:

“Gunproof Your Children,” Police Bookshelf/Potshot Press

“Handgun Primer,” Police Bookshelf/Potshot Press.

“The Police View of Gun Control,” Second Amendment Foundation.

“Armed and Alive,” Second Amendment Foundation.

Forewords for Authoritative Texts:

“The Newhall Incident,” by Mike Wood

“Armed: The Essential Guide to Concealed Carry,” by Dr. Bruce Eimer

“The Gun Digest Book of the Revolver,” by Grant Cunningham

“Mu Tau: The Modern Greek Karate” by James Arvanitis

“Realistic Defensive Tactics” by John Peters

“Modern Centerfire Handguns” by Stanley Trzoniec

“You Can’t Miss” by John Shaw

“MasterTips” by Jon Winokur

“Effective Defense” by Gila May-Hayes

“In Self Defense” by Michael Izumi

“The Tactical Pistol” by David Lauck

“The Tactical Rifle” by David Lauck

“Personal Defense for Women” by Gila Hayes

“Lessons From Armed America” by Mark Walters and Kathy Jackson

“Armed Response” by Dave Kenik

“Rule the Night/Win the Fight” by Ed Santos

Periodicals:

Handgun Editor, *Guns* magazine

Law Enforcement Editor, *American Handgunner* magazine

Contributing Editor, *Shooting Industry* magazine

Contributing Editor, *On Target* magazine

Firearms Editor, *Backwoods Home* magazine

Associate Editor, *Combat Handguns* magazine

Associate Editor, *Guns & Weapons for Law Enforcement* magazine

Associate Editor, *Gun Week*

Have published thousands of articles in various professional journals and newsstand periodicals, the overwhelming majority related to law enforcement, weaponry, martial arts and personal defense. Firearms articles have appeared in *Guns*, *American Handgunner*, *Handguns*, *GUNsport*, *Handgunner*, *Home Defense*, *Glock Annual*, *Colt Annual*, *Magnum*, *Gun World*, *Combat Handguns*, and others. Martial arts/unarmed combat articles have appeared in *Black Belt*, *Official Karate*, *Inside Kung-fu*, *Inside Karate*, *Warriors*, *Fighting Stars*, and other such publications. Law enforcement articles have been published in *American Police Beat*, *Law & Order*, *Police*, *Police Product News*, *Sentinel*, *Trooper*, *Patrolman*, *Police Marksman*, *Guardian*, *Guns & Weapons for Law Enforcement*, *Guns & Ammo Law Enforcement Annual*, and other police professional journals and law enforcement related periodicals. Has also been published in *Car & Driver*, *Gentlemen's Quarterly*, *Man's Magazine*, *Modern Jeweler*, *New Hampshire Outdoorsman*, *New Hampshire Times*, *Prism*, *Sexology*, *Sports Afield*, and assorted other general interest publications.

Training Films

"Massad Ayoob on Concealed Carry," Panteao Productions, 2013

"Massad Ayoob on Home Defense," Panteao Productions, 2011

"StressFire Handgun," 2002

"StressFire Shotgun," 2002

"StressFire Rifle," 2002

"Deadly Force Cases," ALI-ABA, 2001

"Judicious Use of Deadly Force," 1990

"Post Violent Event Trauma," 1990

"LFI Handgun Safety," 1990

"Off Duty Survival," 1993

"Shoot to Live," 1986

"How Close is Too Close," 1986

"Cute Lawyer Tricks," 1986

"Physio-Psychological Aspects of Violent Encounters," 1981

Has appeared in various other training films.

Quoted as authoritative reference in:

FBI Journal

"Law Enforcement Handgun Digest" (Grennell)

"Gun Digest Book of Combat Handgunnery, 1st edition (Lewis & Mitchell), 2nd and 3rd editions (Karwan)

"Shooting Schools: An Analysis" (Winter)

"Street Survival: Tactics for Armed Encounters," (Adams, McTernan, Remsberg)

"Tactical Edge: Tactics for High Risk Patrol" (Remsberg)

"Handgun Retention System" (Lindell)

"The Street Smart Gun Book" (Farnam)

"Police Handgun Manual" (Clede)

"Police Shotgun Manual" (Clede)

"High Tech SWAT Weapons" (Bane)

"PR-24 Baton Manual" (Starrett)

"Police Officers Guide" (Clede)

Cited as authoritative reference in numerous other publications.

Career Accomplishments

Voted Outstanding American Handgunner of the Year, 1998.

Winner of first annual National Tactical Advocate Award, 1995, awarded by American Tactical Shooting Association.

Winner of the Roy Rogers Award for promotion of firearms safety.

Winner of first George C. Nonte Award for excellence in firearms journalism, 1978.

Firearms Qualifications and Awards

Combat Master, NRA Police Revolver

First 5-gun Master, International Defensive Pistol Association

Master, Revolver, National Marksman Sports Society

Master, Automatic, National Marksman Sports Society

Class A, International Practical Shooting Confederation

Grand Mastershot, UK Practical Shooting Association

Master Blaster, Second Chance

Expert, NRA Action Shooting

Honorary Distinguished Expert, Federal Law Enforcement Training Center

Several times top shooter in statewide NH police combat matches, 1973-2003

Five times New England Regional champion in various handgun disciplines

Co-winner with daughter Justine, National Champion Parent/Child Team, National Junior Handgun Championships, 1998

Has won numerous individual/local combat shooting tournaments, has competed successfully in five countries.

Law Enforcement Experience

Hooksett (NH) Police Dept.: 1972-73, auxiliary policeman. 1973-1980, fully sworn Police Officer. Duties under four chiefs included patrol, firearms training, community relations and crime prevention assignments, dept. firearms instructor for most of this period. Served in part time capacity with full police authority.

Deerfield (NH) Police Dept.: 1982-1990. Fully sworn officer, rank of Sergeant ('82-'84) in charge of all police training, and Lieutenant ('84-'90), in charge of police training and crime prevention activities. Served in part time capacity with full police authority.

Grantham (NH) Police Dept.: 1990-present. Fully sworn Captain and Police Prosecutor. Training, research, and other administrative functions. Served in part time capacity with full police authority.

Massad Ayoob case list

CASE	LOCALE	ALLEGATION	RETAINED BY
Littleton v. Belmont County	OH	Wrongful Death	Defendant
Florida v. Hecksel	FL	Manslaughter	Defendant
Favor v. Walgreen	TX	Wrongful Death	Defendant
Texas v. Hubbard	TX	Murder	Defendant
Wemouth v. Brunswick	ME	Wrongful Death	Defendant
Allen v. Leal	TX	Wrongful Death	Plaintiff
California v. Karlson	CA	Murder	Defendant
Minick v. County of Sacramento	CA	Wrongful Death	Defendant
Jones v. Norwalk	CT	Wrongful Death	Defendant
CA v. Matthews	CA	Assault	Defendant
Maxim v. Livingstone	FL	Wrongful Shooting Injury	Plaintiff
Florida v. Bonenfant	FL	Aggravated Assault	Defendant
Cangealose v. Janet Reno & FBI	Wash DC	Wrongful Termination	Plaintiff
Null v. Murfreesboro	TN	Wrongful Termination	Plaintiff
Missouri v. Beeler	MO	Murder	Defendant
Nordlund v. American Armor	NE	Product Liability	Defendant
House v. Lawco	UT	Product Liability	Defendant
Saldana v. Weitzel	WI	Wrongful Death	Defendant
Messing v. Oak Creek	WI	Wrongful Death	Defendant
Palmquist v. Selvik	IL	Wrongful Death	Defendant
NY v. Gill	NY	Gun Permit Hearing	Defendant
Michigan v. Budzyn	MI	Murder	Defendant
Wallen v. County of El Dorado	CA	Wrongful Death	Defendant
FL v. Jimmy Hecksel	FL	Manslaughter	Defendant
Paderez v. Blocker	CA	Product liability	Defendant
Blanford v. County of Sacramento	CA	Wrongful Death	Defendant
MA v. Robert Tessitore	MA	Manslaughter	Defendant
Kulesza v. Marina Bay	MA	Failure to protect	Plaintiff
MS v. Patrick Champagne	MS	Manslaughter	Defendant
Gorey v. Foley	MI	Wrongful Death	Defendant
Tim Alessi v. State of FL	FL	PCR	Appellant
TN v. Robert Barnes	TN	Murder	Defendant
FL v. Plana	FL	Murder	Defendant
Webster & Castle v. Orange County	FL	Wrongful Shooting	Defendant
Oxendine v. SRMC	NC	Wrongful Death	Defendant
FL v. Ed Michael	FL	Aggravated Assault	Defendant
TX v. Terry Graham	TX	Homicide	State

NM v. Billy Anders	NM	Manslaughter	Defendant
MD v. Der and Kifer	MD	Manslaughter	Defendants
CO v. Larry Lindsey	CO	Aggravated Assault	Defendant
WA v. Jay Olsen	WA	Aggravated Assault	Defendant
Chambers v. Graham	TX	Wrongful Death	Defendant
FL v. Tim Alessi	FL	Murder (appeal)	Defendant
CA v. Thomas Mun & Chad Marshall	CA	Homicide (grand jury level)	State
FL v. William Wilkerson	FL	Murder	Defendant
FL. V. Ronald Robbins	FL	Manslaughter	Defendant
WA v. Jay Olsen	WA	Aggravated Assault	Defendant
Chambers v. Graham	TX	Wrongful Death	Defendant
Arizona v. Larry Hickey	AZ	Aggravated Assault	Defendant
Olevarria v. Couture	VA	Wrongful Death	Defendant
Aguilar v. ICE	NY	Excessive Force	Defendant
Atkinson v. Tulare County	CA	Wrongful Death	Defendant
Gutierrez v. Yolo County	CA	Wrongful Death	Defendant
WV v. Jonathan Ferrell	WV	Murder	Defendant

EXHIBIT B

HARRIS OUTDOOR GROUP PRESENTS #129

THE COMPLETE BOOK OF HANDGUNS 2013

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Defensive Handgun Drills

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S&W M340 M&P .357MAG

AYOUB'S FAVORITE AUTOPISTOLS & REVOLVERS

Glock 21 Gen4 .45 ACP

Ruger LCR .22 LR

Colt NM Gold Cup .45 ACP



6 GUNFIGHTING MYTHS Life & Death LESSONS

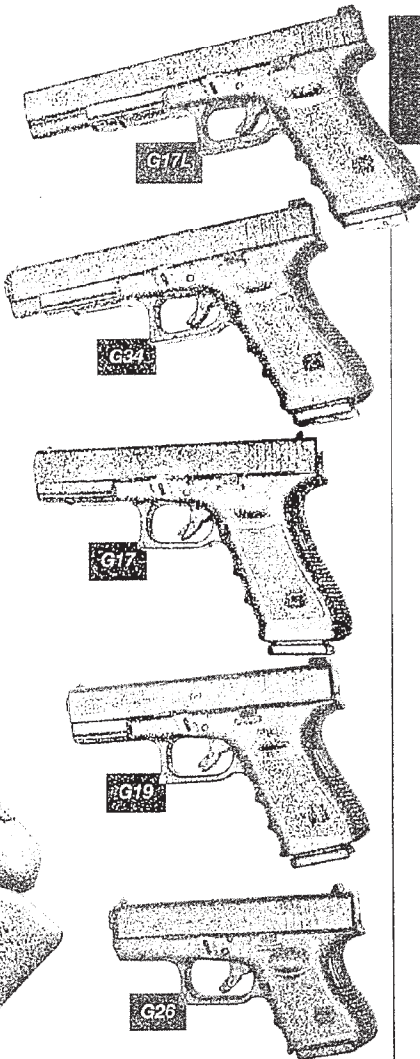
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FINDING THE RIGHT GLOCK



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Available in the United States for more than a quarter of a century now, the Glock pistol dominates market here. There are many good reasons why, and one of them is its versatility. Let's look at the broad array of Glocks presently available. One or the other will probably serve your particular needs a bit better than the rest.

SIZE

The very first Glock, the G17, established itself as a "service pistol" par excellence. That length, in turn, became the "standard size" Glock: a 4.5-inch barrel with slide of commensurate length, and a full-length grip-frame housing a full-length magazine.

That Glock 17, now in its fourth generation of design advancement, is chambered for the 9x19 cartridge, also known as 9mm NATO, 9mm Luger, and 9mm Parabellum. Safe to carry fully loaded with a round in the chamber, it holds 17 more in its standard magazine.

In 1990, the same Glock format was introduced chambered for the then-new .40 S&W cartridge. Known as the Glock 22, this pistol is believed to be in use by more American police departments than any other. Its standard magazine capacity is 15 rounds.

Next, Glock chambered the same gun for the .357 SIG cartridge, and called it the Glock 31. That bottlenecked round shares overall length and case head dimensions with the .40, so by simply interchanging the barrels the shooter can change his Glock .357 to .40, or vice versa. G31 magazines will work with .40, and G22 magazines will work with .357 SIG cartridges.

With one caveat, the Glock 37 pistol in caliber .45 GAP is the same size as the pistols listed above. That one difference is slide thickness: on the G37, the slide is wider, sufficiently so that it comes standard with the oversize slide-stop lever that is merely optional on the other standard size service models. A G37 magazine is designed to hold ten rounds of .45 GAP.

STANDARD COMPACTS

"Standard compacts" sounds like a contradiction, but is used here intentionally to describe the frame size of the standard models made shorter at muzzle and butt. The first of these, going back to the late 1980s, was the Glock 19. Take the G17, shorten the barrel by half

The five configurations of standard size Glocks, shown here in 9mm. From top: longslide G17L, Tactical/Practical G34, standard size G17, compact G19, subcompact "baby Glock" G26.

the line. The differences are found in size and power level.

While I know many people who carry full size Glocks concealed year round, and my friend and ace instructor Tom Givens wears a 5.3-inch Glock 35 holstered inside his waistband daily, the compacts and subcompacts are the ones generally seen as the "concealment guns." Consider the Glock range of "compacts" described above.

The Glock 19 has won many a match for famed instructor "Super Dave" Harrington of Team Panteao, even though it's not perceived as a "match gun." On the NYPD, where officers have a choice of three different 16-shot 9mm pistols for uniform carry, an estimated 20,000 of the city's estimated 35,000 sworn personnel carry the Glock 19. The lightest of the city-approved duty guns, it is compact enough for plainclothes carry in an investigative assignment or off duty, yet substantial enough for uniform duty wear. Its .40 caliber twin, the Glock 23, is standard issue for FBI agents (who have the option of the service-size G22 if they prefer). The G23 is also standard issue for all divisions of the Boston Police Department, and its versatility in both uniformed and plainclothes roles is one reason why.

Glock's subcompact pistols are famous for being remarkably accurate for their size. It is not uncommon to see one outshoot its full-size counterpart in the same caliber. In addition to the mechanics, there is the matter of ergonomics and overall "shootability." Several times in recent years, at GSSF (Glock Sport Shooting Foundation) matches, the overall top shot has tallied that "Matchmeister" score with a subcompact 9mm Glock 26. Mike Ross and Bryan Dover come to mind.

"Well, heck," some might say. "Those guys are so good they could outshoot everybody else with anything." Um...it's not just that. I'm told that on those days, both men shot those winning scores in the Subcompact division. They were also shooting their bigger 9mm Glocks in the Master Stock division. They beat everyone, including themselves, who was using the bigger guns. That says something pretty impressive, not just about Dover and Ross, but about the little Glock 26 pistol.

That said, it was the longer barreled Glock 34 (his signature pistol) that Bob Vogel used to shoot his way to the World Championship of the International Defensive Pistol Association last year. As noted earlier, that's the single most popular handgun, not just the most

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Finding The Right Glock

popular Glock, at the IDPA Nationals every year. The long sight radius is very forgiving in terms of accuracy, and because the front part of their slides are cut away to make them lighter, the Tactical/Practical Glockes are not clunky or muzzle-heavy in feel. In fact, swinging a Glock 35 is a little like waving a wand compared to some of the old-style all-steel pistols it has superseded.

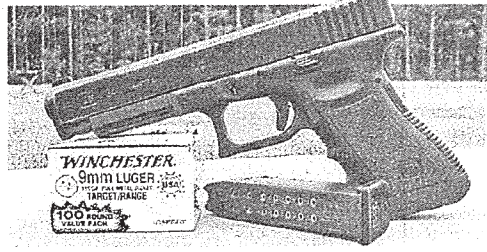
CALIBER QUESTION

Caliber will also be a huge part of the answer to the question, "Which Glock should I buy?" The new shooter in particular is well served with a 9mm, due to both its mild recoil and its relatively low cost compared to the other available calibers. With careful ammunition selection, the 9mm is a sound choice today for defensive purposes...and, of course it has room on board for a bit more ammunition, gun size for gun size. The lighter recoil also makes it the caliber of choice for some types of competition. The .45 caliber always inspires confidence in a police or defensive pistol, and its larger diameter tears bigger holes if the bullet's hollow nose plugs on heavy clothing in cold weather environments. Glockes chambered for the standard 45 Auto round give higher capacity than most of the competition in the big G21 or the compact G30, and for those with smaller hands the standard-frame Glockes in .45 GAP deliver essentially the same level of stopping power. .45 ACP won't exceed .45 GAP in power unless you go to a +P load.

If the debate between 9mm and .45 causes as much angst in the shooter as it has in many law enforcement agencies, the shooter can follow the police path and compromise on the .40, which Glock offers in all sizes.

An increasing number of police departments have gone with the powerful .357 SIG cartridge, such as the Tennessee Highway Patrol, which issues the Glock 31. With 125-grain hollow points, this high-velocity round has earned an excellent reputation for "stopping power," and for tactical barricade penetration. Its velocity also gives it a flat trajectory for long shots.

Glock has been known to produce other calibers for markets outside the United States. The Glock in caliber 9x21 is popular in Italy, where private citizens are forbidden to own military caliber guns. One South American nation reportedly permits its citizens to carry only .32 or smaller caliber handguns; a Glock in .30 Luger would be ideal there. Glock produces compact and subcompact



The Glock Tactical/Practical, here in a 9mm G34 configuration.

.380s as well, though they're not imported into the U.S.

There are .22 LR conversions units available, affording inexpensive practice with the Glock. The one from Advantage Arms gets uniformly good reviews. This writer would like to see Glock bring out their own rimfire for their next product, which in the logical line of company product numbering, would be the fortieth. If the Glock 22 is a .40, it seems only fair that the Glock 40 should be a .22.

TRIGGERS

Determined to be "double-action-only" by the Bureau of Alcohol, Tobacco, Firearms and Explosives, Glock's Safe Action trigger is available in multiple formats. The standard is the 5.5-pound with standard trigger return spring, designed to give an overall pull of that weight. The shooter will experience a two-stage pull, rather like an old Springfield or Mauser bolt-action rifle trigger. The first stage is a relatively long, light take-up, followed by a shorter completing movement with more resistance. Glock shooters find it easy to "ride the link," allowing the trigger to return forward from the last shot only until the sear engagement is felt, and then repeating the press.

Some police departments, such as Miami PD and the San Bernardino County Sheriff's Department, have over the years seen fit to install heavier connectors in their issue Glockes. This would be the 8-pound. Butch Barton, who won more Gunny Challenge Glock matches than anyone else, long favored this set-up in his Glockes because he felt it gave him a crisper release. The 8-pound connector has not become widely popular elsewhere, however.

On the other end of the scale is the 3.5/4.5-pound connector, which debuted with the G17L match pistol. Now known by the 4.5 pound designation, it registers that weight when the trigger is pulled from the center, where most of us place the index finger, and can go down to 3.5

pounds due to leverage when weighed at the bottom, or less of the trigger. Very popular among competitive shooters, it is sternly warned against by Glock for "duty pistols" or self-defense guns, unless used in conjunction with a New York style trigger return spring unit.

Twenty-some years ago, at the behest of the New York Police Department, Glock created the New York Trigger, now known as NY-1. This device

replaces the standard trigger return spring and gives a firm resistance to the still-two-stage trigger from the very beginning of the pull. When mated with the 5.5-pound connector, the NY-1 brings pull weight up into the 7- to 8-pound range. A Mid-western state police agency pioneered the practice of mating the 3.5-pound connector with the NY-1, which gave a very smooth and uniform pull in the 6-pound weight range. This combination has been Glock approved for duty/defense guns across the board for several years now. For NYPD, Glock also developed a "New York Plus" module, now known as the NY-2, which with the standard 5.5-pound connector brings pull weight up into the 11- to 12-pound range. To my knowledge, it is used only by NYPD and the New York State Parole Board.

This writer recommends following Glock's guidelines and only going with the 3.5/4.5-pound total pull in a competition gun. Some wonder why that system is standard in the Tactical/Practical guns; they need to look at the Glock website (glock.com) and observe that those pistols are listed under the Sport Shooting and Enthusiast categories, and not under Police, Military, or Personal Defense. It is Glock's policy to ship G34s and G35s ordered by police departments with the standard 5.5-pound trigger system, and it is worth noting that when the Kentucky State Police adopted the Glock 35, they ordered them with NY-1 triggers.

FINAL NOTES

The most popular police handgun in America, the Glock is also hugely popular for action pistol competition and home and personal defense, and in 10mm or .357 SIG can be a very useful outdoorsman's sidearm, too. There's pretty much a Glock for everyone, but it's up to the shooter to identify his or her needs, and then determine which page to mark in the Glock catalog. To learn more, call 770-432-1202 or visit glock.com.

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EXHIBIT C



Disarming Mass Murderers

By Massad Ayoob

Situation:

Some gun grabbers seek magazine capacity limits, citing the theory it'll force mass murderers to reload sooner — allowing them to be disarmed by citizens and thus reducing potential death toll.

Lesson:

There are faster ways to stop mass murderers; disarming is a risky strategy at best. In most cases, mass murderers and spree killers carry multiple guns — and they're not going to give them up to unarmed citizens.

When legislation is introduced to ban or criminalize so-called "high-capacity magazines," one argument always cited by gun grabbers is it will force mass-murderers to reload sooner — creating a window of opportunity in which some heroic citizen can disarm them and stop the killing. There are, of course, several things wrong with this hypothesis. One is the unrealistic assumption someone who's willing to commit mass murder won't be willing to access and use an illegal magazine.

Tactically, how likely is it there will be someone close enough to jump a gunman caught at slide-lock without the rescuer already (being in such close proximity to the murderer) shot before he could even make the disarming attempt? To find the answer, we have to look deeply into the history of such incidents.

Disarms During Reloading ... or Not?

Two incidents seem to be most often cited by those who demand reduced magazine capacity. One is the capture of Jared Loughner after the murder spree in Tucson in which he killed six people and wounded a dozen more, including US Representative Gabrielle Giffords. The other is the capture of Colin Ferguson, which ended the Long Island Railroad train massacre, which claimed six lives and left 19 more people wounded. In each case, multiple people were able to overpower the killer at a point when his weapon was no longer shootable. It should be noted, however, accounts of how it

happened seem to differ among the witnesses. In the case of Loughner, we know Patricia Maisch ended up holding one of his magazines. Some of Ms. Maisch's accounts make it sound as if she ripped it from his hand, while in others, she seems to say he dropped it and she picked it up.

However, Loughner was carrying multiple magazines, and at least one witness insists he had already reloaded a fresh magazine — but had somehow jammed the Glock 19 while attempting to complete the reload. In the Long Island Railroad massacre, Ferguson reloaded at least once and sustained fire. His Ruger P89 had apparently run dry at the time he was rushed and overpowered by unarmed citizens. Accounts differ as to whether Ferguson was attempting to reload a third full magazine at this time, or had shot all his magazines empty and was trying to insert loose cartridges into one of the empty mags.

Thus, it remains possible Loughner was successfully disarmed, not because he was reloading per se, but because he had jammed his already-reloaded gun. If in fact Ferguson had run out of loaded magazines, he was de facto more “out of ammunition” than he was “reloading” at the time he was overpowered and disarmed. Details, details

...

There have been successful disarms in public shootings; let's take a look.

Successful Disarms

In Moses Lake, Wash., 14-year-old Barry Loukaitis opened fire at the middle school he attended. Armed with a .30-30 rifle, .357 Magnum revolver, .25 auto and 78 rounds of ammunition, he killed three victims and wounded a fourth before a gym coach was able to wrestle the rifle away from him and hold him down. Note: the courageous gym teacher didn't let the murderer keep shooting and killing until he ran empty — he got the .30-30 away from the young murderer while it was still loaded. If you're going to attempt a disarm, this strategy would seem likely to save the most lives.

In June 2014, Aaron Ybarra, 26, opened fire at Seattle Pacific University. He killed one and injured three, and was then pepper-sprayed and overpowered by student monitor Jon Meis. According to one report, the killer's weapon was a double-barrel shotgun, in poor repair and capable of firing only one barrel — for all practical intents and purposes, a single-shot weapon. While this in no way detracts from the courage displayed by the heroic Jon Meis, it's not common for mass murderers to use single-shot weapons.

Another young hero to emerge from a mass murder atrocity is Jacob Ryker. Kip Kinkel, 15, murdered his parents and gained control of a Ruger 10/22 rifle, Ruger MK II .22 pistol and 9mm Glock 19. He took them to his school in Springfield, Ore., with an ample supply of ammunition and opened fire. His barrage had killed four people and wounded 25 more when one of those wounded students, young Mr. Ryker, jumped him as the killer reloaded the rifle.

However, Kinkel had armed himself with multiple weapons. During the struggle, he drew the 9mm and fired, wounding Ryker again and also another student. Then according to accounts, Ryker, now joined by six other students, was able to finally disarm him and gain physical control. By then, Kinkel had fired a total of 51 rounds, 37 of which struck human targets.

When It Goes Wrong

Getting a gun away from a killer isn't easy. Good people have died in the attempt. In the Luby's Cafeteria massacre in Killeen, Texas, George Hennard drove his pickup truck through the plate glass window of the restaurant and stepped out with a Ruger P89 and a Glock 17. He shot 43 people, 23 fatally. In the midst of the slaughter, Al Hupp attempted to disarm the madman.

He wasn't successful. Hennard shot him in the chest with one of the pistols, mortally wounding him. As Hupp's wife cradled her dying husband, Hennard shot her dead too. When police arrived and he tasted return fire, Hennard killed himself.

This atrocity occurred before the passage of shall-issue concealed carry in Texas. Suzanna Gratia-Hupp, the murdered couple's daughter, had left her S&W .38 in her parked vehicle according to Texas law. She was certain she could have neutralized Hennard early in the encounter had her gun been within reach. Instead, she endured the horror of watching her parents murdered. Ever since, Suzanna Gratia-Hupp has been one of our most eloquent and poignant spokespersons for armed citizens and lawful concealed carry.

Perhaps the most glaringly conspicuous failure to disarm occurred during the mass murder that most tore at America's heart: Sandy Hook. The first to die was petite school principal Dawn Hochsprung. As quintessential loser Adam Lanza blasted his way through the locked door of the school, she ran at him in what could only be construed as an attempt to disarm and restrain.

She apparently never got within touching distance before he shot her down. Later, with 20 helpless children and six brave but helpless adults dead at his hands, he blew his brains out as soon as police arrived.

In Colebrook, N.H., a bitter old man named Carl Drega went on a murder rampage, assassinating two state troopers and a female judge he hated. As he left the latter murder scene, newspaper editor Dennis Joos attempted to get his rifle away from him. Drega reportedly snarled, "Mind your own f—ing business," threw Joos to the sidewalk, and killed him with multiple gunshots. After a manhunt in which multiple lawmen were wounded, Drega was shot and killed by police.

What about verbally convincing the gunman to just put down the gun? This strategy doesn't have a promising history. In 2013, a 12-year-old boy came to school with a gun in

Sparks, Nev. Teacher Michael Landsberry tried to "talk him down." The boy shot and killed the teacher, and then committed suicide.

Physical Mismatches

If you're close enough to grab the offender as soon as he starts shooting — and actually know how to do it — you have a reasonable chance of succeeding. Unfortunately if you're close, you'll very likely be one of the first victims of his criminal gunfire, perhaps before you can act. There is also the matter of relative physical strength. In the Loukaitis incident, an adult male gym teacher was able to overpower a 14-year-old boy who, judging by his photos, was physically unimposing.

In the Drega murders, Dennis Joos wasn't a physically large or especially strong man, and was up against a rugged, muscular killer who stood over 6' tall and weighed well over 200 pounds. This disparity made Joos all the more a hero in his last moments, but at the end, a dead hero.

And let's not forget, the opponent may have multiple guns; it's going to be awfully hard to disarm him if he's not in surrender mode. Though most accounts of the Drega murders have him killing Joos with the same .223 he used on his first three victims, the Wikipedia story on the case as of this summer states, "During the struggle Drega shot and killed Joos with a second firearm." And we recall Jacob Ryker was wounded in the Kinkel incident when the punk he was disarming drew a second gun and shot him and another boy.

Multiple Guns

Ron Borsch is a retired career lawman and SWAT cop, whose second career was as head of the Southeast Area Law Enforcement Academy in Bedford, Ohio. A pioneer in the concept of lone-officer response to active mass murder incidents, he's one of the nation's leading authorities on this sort of terrible event. When he and I were both instructing at the International Law Enforcement Educators and Trainers Association (ILEETA) conference earlier this year, I asked him how many of the mass killers he studied had been armed with multiple guns. "Well over half," he answered.

This isn't new. One of the worst mass murderers in American history goes back to Civil War times, "Bloody Bill" Anderson, a senior officer in Quantrill's Raiders. The trademark of these guerrillas was carrying multiple revolvers, usually .36-caliber Navy Colts. When he was killed in a shootout with Union troops, an eyewitness to Anderson's death said, "Bloody Bill had four revolvers buckled around him and two very large ones across the saddle."

In 1966, Charles Whitman ascended the Texas Tower in Austin with so many guns and ammunition he had them in a footlocker, which he rolled into the elevator on a dolly. He murdered 17 people and wounded 32 more from his lofty perch immune to .38-caliber revolver fire and 12-ga. buckshot from police, until rifle fire from armed citizens on the

ground pinned him down. Another armed citizen led police to his sniper's nest atop the tower, where they killed him.

The term "going postal" came in large part from Patrick Sherrill's death orgy in the Edmond, Okla., Post Office (14 dead, six wounded, perpetrator took own life). Sherrill was armed with two 1911 .45's he had been issued by the National Guard, and a .22 target pistol of his own.

The list goes on. James Holmes in the Aurora, Colo., theater: AR-15 with high-capacity magazine which jammed early on, 12-ga. Remington 870 and two Glock 22 pistols, one on his person and one in his car. He surrendered as soon as police confronted him. By then, he had shot 82 helpless people in his chosen "Gun-Free Zone," a dozen of them fatally. He, like the other multiple-armed perpetrators discussed here, would have been tough to disarm.

A Better Strategy

When a monster with a lethal weapon attempts wholesale murder of the innocent, what's a better strategy than expecting untrained potential victims to grapple with them?

Quite simply, have a trained, armed person in place to suppress them.

A few months before the Aurora theater atrocity, another incident happened in the same city, which the national media chose to virtually ignore. On April 22, 2012, Kiarron Parker opened fire outside a church in Aurora, killing the pastor's mother. Instantly, one member of the congregation — an off-duty Denver Police officer named Antonio Milow — drew his own handgun and shot and killed Kiarron before he could wreak any more mayhem.

In 2007, also in Colorado, psycho loser Matthew Murray shot multiple people at one church then went to another, where he opened fire and shot more victims. Then, Jeanne Assam — a former cop, working as volunteer church security — ran at him with a Beretta 92 in her hands, firing as she went. She hit him with bullet after 124-gr. 9mm JHP bullet, and he went down with just enough life force left to shoot himself. The pastor of the church later credited Assam with saving 100 or more lives. A detailed account of this incident can be found in the Ayoob Files archives here at American Handgunner.

Luke Woodham, 16, stabbed and bludgeoned his mother to death to get the keys to his estranged father's gun cabinet, where he took a Marlin .30-30 rifle and headed to his high school in Pearl, Miss. He shot nine of his teenage schoolmates, killing two.

As he drove out of the parking lot — on course to a nearby junior high school, and still armed with the rifle and more ammunition — Woodham was taken at gunpoint by Vice Principal Joel Myrick, who had sprinted to the parking lot to retrieve a Colt .45 auto from his truck. The killer stopped his car, exited and went to the ground in front of the armed teacher squealing, "The world has wronged me, Mr. Myrick!" A detailed account of this event is also in the Ayoob Files archives.

Lessons

Waiting for the gunman to run empty and then jumping him for the gun, no matter how many rounds it was loaded with, is simply not as viable of a strategy as it sounds. History teaches us another strategy works much better.

This strategy is born in reality: In almost every one of these highly-publicized mass murder/killing spree incidents, as soon as the gunman is met with return fire he ceases shooting innocent people and either is killed, kills himself or surrenders soon thereafter. Unarmed, untrained people attempting disarms sometimes actually prevailed, but oftentimes were hurt or killed in the attempt.

Those who would commit the most rigidly prohibited crimes in the history of civilization are certainly not likely to be deterred by a law limiting magazine capacity. The only people who can be realistically expected to obey such laws are, by definition, the law-abiding and not the law-breakers.

When in the wake of the Sandy Hook atrocity, NRA spokesman Wayne LaPierre said the only thing capable of stopping a bad guy with a gun was a good guy with a gun, he was shouted down and excoriated by the mass media. Yet, history and reality combine to show he spoke the absolute truth.

After the Ma'alot Massacre, Israel put armed good guys into their schools; many of them school personnel and student family members who volunteered to be trained for the job by Mishmar Ezrachi, the Israeli civil guard. Terrorist attacks on schoolchildren plummeted.

Here in the US, intended mass school shootings have been short-circuited by armed SRO's, school resource officers from local law enforcement agencies. An increasing number of school systems are, to the horror of the gun grabbers, quietly arming and training volunteer personnel to perform the same function as the Israeli model. Discreet arming of church volunteers for the protection of the congregation seems to have become even more widespread.

We can only wonder what might have happened if the courageous principal of Sandy Hook Elementary School, Dawn Hochsprung, had been armed and capable of dealing with Adam Lanza on that terrible day in December 2012. She died courageously, trying to defend the little children and the adult staff for whom she was responsible. Her empty hands rendered her brave spirit futile, and we all know what happened next.

If instead those empty hands had held Jeanne Assam's Beretta 92 with the same skill. If

...

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
WADDELL, CALIFORNIA RIFLE &
PISTOL ASSOCIATION,
INCORPORATED, a California
corporation,

Case No: 17-cv-1017-BEN-JLB
CERTIFICATE OF SERVICE

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; and DOES 1-10,

Defendant.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 E. Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

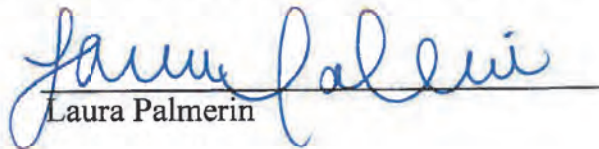
I have cause service of the following documents, described as:

DECLARATION OF MASSAD AYOUB IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; EXHIBITS A-C

on all parties by placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Long Beach, CA, on May 26, 2017.

Ms. Alexandra Robert Gordon
Mr. Anthony P. O'Brien
California Department of Justice
1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2017, at Long Beach, CA.


Laura Palmerin

ER2419

1 C.D. Michel – SBN 144258
2 Sean A. Brady – SBN 262007
3 Anna M. Barvir – SBN 268728
4 Matthew D. Cubeiro – SBN 291519
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11 Attorneys for Plaintiffs

12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 VIRGINIA DUNCAN, RICHARD
15 LEWIS, PATRICK LOVETTE, DAVID
16 MARGUGLIO, CHRISTOPHER
17 WADDELL, CALIFORNIA RIFLE &
18 PISTOL ASSOCIATION,
19 INCORPORATED, a California
20 corporation,

21 Plaintiffs,

22 v.

23 XAVIER BECERRA, in his official
24 capacity as Attorney General of the State
25 of California; and DOES 1-10,

26 Defendants.

27 Case No: 17-cv-1017-BEN-JLB

28 **DECLARATION OF JAMES
CURCURUTO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION;
EXHIBIT D**

Date: June 13, 2017
Time: 10:00 a.m.
Dept: 5A
Judge: Hon. Roger T. Benitez

DECLARATION OF JAMES CURCURUTO

1
2 1. I, James Curcuruto, am not a party in the above-titled action. I am over the age
3 of 18, have personal knowledge of the facts and events referred to in this Declaration, and
4 am competent to testify to the matters stated below.

5 2. I am the Director, Industry Research and Analysis, at the National Shooting
6 Sports Foundation (“NSSF”). The NSSF is the trade association for the firearms
7 industry. Its mission is to promote, protect and preserve hunting and the shooting sports.
8 Formed in 1961, NSSF has a membership of 12,000 manufacturers, distributors, firearms
9 retailers, shooting ranges, sportsmen’s organizations and publishers.

10 3. In my position as Director, Industry Research and Analysis, I am responsible
11 for most of the industry research activities at NSSF, and I direct the activities of an
12 internal research coordinator as well as outside companies retained to conduct research
13 and gather market and consumer information useful to NSSF members.

14 4. Many NSSF members manufacture, distribute and/or sell firearms and
15 shooting and hunting-related goods and services, and as is usual and customary for trade
16 associations, the NSSF collects and disseminates industry-specific, non-sensitive data
17 reflecting consumer preferences, market trends and other information for use in their
18 business decisions. Among the shooting and hunting-related goods and services
19 manufactured, distributed and sold by NSSF members are ammunition
20 magazines.¹ Research conducted by the NSSF and under my direction demonstrates that
21 detachable ammunition magazines are very popular and are commonly owned by
22 millions of persons in the United States for a variety of lawful purposes, including, but
23

24
25 ¹ A “magazine” is a receptacle for a firearm that holds a plurality of cartridges or
26 shells under spring pressure preparatory for feeding into the chamber.
27 <http://saami.org/glossary/display.cfm?letter=M>, Glossary of Terms, Sporting
28 Arms and Ammunition Manufacturers’ Institute (SAAMI). While magazines take
many forms – box, drum, rotary, tubular, etc. and may be fixed or removable –
from the materials I considered and firearms industry professionals I consulted, the
figures discussed in this declaration generally (if not exclusively) concern detachable,
box magazines.

1 not limited to, recreational and competitive target shooting, home defense, collecting and
2 hunting.

3 5. In addition to ammunition magazines accompanying firearms that utilize
4 them at the time of sale, such magazines are also widely available for sale as a stand-
5 alone item to individuals who need a replacement, different-capacity, and/or additional
6 magazines.

7 6. I am not aware of any singular public source providing reliable figures
8 identifying exactly how many ammunition magazines are manufactured or imported for
9 sale within the United States each year. There are, however, data available to me from
10 which estimations of the amount of magazines that have been sold to the general
11 population, as well as how many of those have a capacity for ammunition exceeding ten
12 rounds, can be calculated within a reasonable degree of certainty.

13 7. Using such data, I have, in the normal scope of my duties on behalf of the
14 NSSF, calculated estimations of the total number of magazines possessed by consumers
15 in the United States, as well as how many of those have a standard capacity for
16 ammunition exceeding ten rounds. These estimations are published in the NSSF®
17 Magazine Chart attached as Exhibit "D."

18 8. The NSSF® Magazine Chart estimates that 230 million pistol and rifle
19 magazines were in the possession of United States consumers between 1990 and
20 2015. The data supporting the Report further shows magazines capable of holding more
21 than 10 rounds of ammunition accounted for approximately 115 million or approximately
22 half of all magazines owned.

23 9. Sources used to compile the NSSF® Magazine Chart include the Bureau of
24 Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms Manufacturers and
25 Exports Reports (AFMER), U.S. International Trade Commission (ITC), as well as,
26 opinions of firearms industry professionals. To prepare the NSSF® Magazine Chart,
27 only the number of pistols and rifles were used while revolver and shotgun data was
28 excluded as revolvers and the vast majority of shotguns do not utilize magazines.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
WADDELL, CALIFORNIA RIFLE &
PISTOL ASSOCIATION,
INCORPORATED, a California
corporation,

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; and DOES 1-10,

Defendant.

Case No: 17-cv-1017-BEN-JLB

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 E. Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

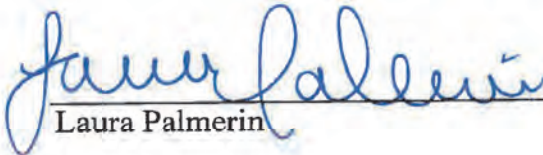
I have cause service of the following documents, described as:

**DECLARATION OF JAMES CURCURUTO IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION PLAINTIFFS'
NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION**

on all parties by placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Long Beach, CA, on May 26, 2017.

Ms. Alexandra Robert Gordon
Mr. Anthony P. O'Brien
California Department of Justice
1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2017, at Long Beach, CA.



Laura Palmerin

1 C. D. Michel - SBN 144258
Sean A. Brady - SBN 262007
2 Anna M. Barvir - SBN 268728
Matthew D. Cubeiro - SBN 291519
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6 Attorneys for Plaintiffs

7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE,
11 DAVID MARGUGLIO,
CHRISTOPHER WADDELL, and
12 CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,
13 a California corporation,

14 Plaintiffs,

15 v.

17 XAVIER BECERRA, in his official
capacity as Attorney General of the
18 State of California, and DOES 1-10,

19 Defendants.

Case No: 17-cv-1017-BEN-JLB

**DECLARATION OF STEPHEN
HELSLEY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: June 13, 2017
Time: 10:00 a.m.
Dept: 5A
Judge: Hon. Roger T. Benitez

DECLARATION OF STEPHEN HELSLEY

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1. I am a retired peace officer from the California Department of Justice (DOJ). The bulk of that career was in drug enforcement. The last three positions I held were Chief of the Bureau of Narcotic Enforcement, Chief of the Bureau of Forensic Services and finally Assistant Director of the Division of Law Enforcement. As Assistant Director, I was responsible for the department’s criminal, civil and controlled substance investigations as well as law enforcement training, intelligence gathering and our forensic laboratory system. In my executive level positions, I had occasion to review special agent-involved shootings and a wide range of homicides involving firearms. I have qualified as an expert in both criminal and civil matters. I was the department’s principal firearms instructor for many years and am an FBI certified range master. I also participated in the firearm training that was part of the FBI National Academy Program in Quantico, Virginia. Additionally, I am a member of the American Academy of Forensic Sciences and a technical advisor to the Association of Firearm and Tool Mark Examiners. I have co-authored five books on firearms and have authored or co-authored more than fifty firearm-related articles for US and Russian journals. For the past twenty years, I was first a state liaison and, then later, a consultant to the National Rifle Association. Throughout my adult life I have been an active participant in handgun, rifle and shotgun competitions. I have also been a firearm collector and ammunition reloader since the early 1960s. Finally, I am a collector of firearm related books – of which I have approximately three thousand. Included in my book collection are approximately 50 different issues of *Gun Digest*, the earliest of which is from 1944 and includes the 2016 issue. It is a standard resource that is widely used by gun dealers and buyers alike. *Gun Digest* has traditionally provided a comprehensive overview of the firearms and related items available to retail buyers.

2. The combination of my consulting work, writing and free time activities puts me in constant contact with gun stores, shooting ranges, gun shows and gun

1 owners. I am also in frequent contact with retirees from DOJ and other law
2 enforcement agencies. It is clear to me from my collective experiences that
3 magazines having a capacity of more than 10-rounds are a common choice for self-
4 protection in both rifles and handguns.

5 3. The standard magazine for a given firearm is one that was originally
6 designed for use with that firearm, regardless of whether its capacity is six, ten,
7 fifteen, or twenty rounds. Various popular handgun models originally came from
8 the manufacturer standard, free from artificial influences like laws restricting
9 capacity, with magazines exceeding ten rounds. Examples include, but are in no
10 way limited to, the Browning High Power (13 rounds) c.1954, MAB PA-15 (15
11 rounds) c.1966, Beretta Models 81/84 (12/13 rounds) c.1977, S&W Model 59 (14
12 rounds) c.1971, L.E.S P-18 (18 rounds) c.1980 aka Steyr GB, Beretta Model 92 (15
13 rounds) c.1980s, and Glock 17 (17 rounds) c.1986. I know there to be many more
14 examples not listed here.

15 4. Firearms with a capacity exceeding 10-rounds date to the ‘dawn of
16 firearms.’ In the late-15th Century, Leonardo Da Vinci designed a 33-shot weapon.
17 In the late 17th Century, Michele Lorenzoni designed a practical repeating flintlock
18 rifle. A modified 18th Century version of Lorenzoni’s design, with a 12-shot
19 capacity, is displayed at the NRA’s National Firearms Museum. Perhaps the most
20 famous rifle in American history is the one used by Lewis and Clark on their ‘Corps
21 of Discovery’ expedition between 1803 and 1806 -- the magazine for which held
22 twenty-two .46 caliber balls.

23 5. Rifles with fixed magazines holding 15-rounds were widely used in the
24 American Civil War. During that same period, revolvers with a capacity of 20-
25 rounds were available but enjoyed limited popularity because they were so
26 ungainly.

27 6. In 1879, Remington introduced the first ‘modern’ detachable rifle
28 magazine. In the 1890s, semiautomatic pistols with detachable magazines followed.

1 During WWI, detachable magazines with capacities of 25 to 32-rounds were
2 introduced. As those magazines protruded well below the bottom of the pistol's
3 frame, they weren't practical for use with a belt holster – and by extension
4 concealed carry for self-defense.

5 7. In 1935, Fabrique Nationale introduced the Model P-35 pistol with its
6 fully internal 13-round magazine. It would become one of the most widely used
7 military pistols of all time. During WWII, magazine capacity for shoulder-fired
8 arms was substantially increased while most pistols (excluding the P-35) remained
9 at 10-rounds or less. In the mid-1950s the P-35 was rebranded the High Power and
10 imported to the US.

11 8. This transition of a firearm from military to civilian use for sport or self-
12 defense is very common. The standards of WWI – the 1903 Springfield rifle and the
13 Colt M1911 pistol are but two of many examples. Civilian sales of both began
14 immediately after the war ended. The Springfield would become the standard for
15 both rifle hunting and target competition. Likewise, the M1911 Colt pistol was a
16 target-shooting standard for a half-century or more and popular for self-defense.

17 9. Between the two world wars, double-action semiautomatic pistols like
18 the Walther PPK and P-38 were introduced. The double-action feature allowed the
19 first shot to be fired in a manner similar to a revolver. Law enforcement agencies in
20 the United States had traditionally used revolvers. However, in the early 1970s, a
21 confluence of events changed that: training funds became widely available and so
22 did the first double action semiautomatic pistol (the S&W M59) with a 14-round
23 magazine. Soon major agencies were transitioning to the M59 and the legion of
24 other makes that followed – CZ, Colt, HK, Sig-Sauer, Glock, Beretta, Ruger, Smith
25 & Wesson, etc. Pistols with magazine capacities as large as 19-rounds quickly
26 replaced the six-shot revolver.

27 10. Law enforcement demand for the new generation of semiautomatic
28 pistols helped create an increased demand in the civilian market. Comparing 1986

1 and 2010 handgun sales, one can see evidence of that change. According to the
2 Bureau of Alcohol Tobacco Firearms and Explosives, in 1986, 663,000 pistols were
3 sold in the United States versus 761,000 revolvers. In 2010, revolver sales had
4 dropped to 559,000 while pistol sales had grown to 2,258,000. *See* United States
5 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives,
6 Firearms Commerce in the United States, Annual Statistical Update (2012).¹ The
7 result of almost four decades of sales to law enforcement and civilian clients is
8 millions of semiautomatic pistols with a magazine capacity of more than ten rounds
9 and likely multiple millions of magazines for them. My associates who have such
10 pistols also have a significant number of spare magazines for them. In my case, I
11 have one 19-round and eight 17-round magazines for my Glock.

12 11. The concealed weapon permit holder and the home-owner wants a
13 pistol that can hold significantly more cartridges than a revolver for the same reason
14 a law enforcement officer or soldier wants one – to increase his or her chances of
15 staying alive. Gunfights frequently involve a lot of ‘missing.’ This can be the result
16 of improper aim or impact with barriers such as vehicles or walls. One would be
17 hard pressed to find someone who had been in a gunfight that complained about
18 having too much ammunition.

19 12. Some believe that anyone defending themselves can just “shoot to
20 wound.” Those who grew up in the 1950s likely watched Roy Rogers shoot the gun
21 out of an evildoers hand or—if things got really serious—let loose a grazing wound to
22 the arm to settle matters. Such ideas are a fantasy. Equally as silly is the well-
23 known ‘fact’ that a bullet from a .45ACP cartridge will knock someone to the
24 ground no matter where it strikes them.

25
26
27 ¹ Report available at [http://www.atf.gov/files/publications/firearms/050412-
28 firearms-commerce-in-the-us-annual-statistical-update-2012.pdf](http://www.atf.gov/files/publications/firearms/050412-firearms-commerce-in-the-us-annual-statistical-update-2012.pdf)

1 13. The notion that a bullet can ‘knock-down’ a person is a largely
2 Hollywood-inspired myth. Most of us learned in school about Sir Isaac Newton’s
3 *Third Law of Motion* that states - “For every action, there is an opposite and equal
4 reaction.” Put another way: if the recoil of the firearm doesn’t knock you down,
5 neither will the impact of the bullet. Bullets can penetrate skin, cut arteries, brake
6 bones or interrupt nerve function to accomplish what is generally described as
7 ‘stopping power.’ A bullet that severs the spine or strikes a certain area of the brain
8 will almost certainly stop an attacker instantly. Bullet design and/or increased
9 velocity may improve performance but placement is still the most critical factor. A
10 hit, or even multiple hits, to less vital areas of the body may allow an attacker to
11 continue the assault. This phenomenon is extensively documented in the citations
12 for American heroes who were awarded the Congressional Medal of Honor. Many
13 of these men continued to fight after suffering multiple gunshot wounds, being
14 struck by shrapnel or having an arm or leg severed. *See, e.g.,* The Congressional
15 Medal of Honor, The Names, The Deeds 28-29, 52-53, 284-85 (Sharp & Dunnigan,
16 1984). A fighter who has overcome fear and is motivated to continue an attack can
17 be difficult to stop. In the infamous 1986 FBI shoot-out with two Florida bank
18 robbers, one of the suspects, Michael Platt, sustained 12 gunshot wounds before
19 dying. Jamie Frater, Top 10 Most Audacious Shootouts in US History, Listserve
20 (October 14, 2009) [http://listverse.com/2009/10/14/top-10-most-audacious-](http://listverse.com/2009/10/14/top-10-most-audacious-shootouts-in-us-history/)
21 [shootouts-in-us-history/](http://listverse.com/2009/10/14/top-10-most-audacious-shootouts-in-us-history/).

22 14. “Knockdown” and “Stopping Power” are things I know from personal
23 experience. During my early years as a narcotic agent with the California
24 Department of Justice, I was conducting an undercover investigation of a
25 significant heroin dealer. After purchasing an ounce and a half of heroin from him
26 and the arrest was initiated, he shot me with a .45 first breaking my left arm and
27 severing an artery (Note: I wasn’t ‘knocked down.’) and then bouncing another
28 round off my spine that exited my right leg. From a prone position I returned fire at

1 the suspect who was mostly concealed by the trunk of his car. My shots that struck
2 the vehicle failed to penetrate sufficiently to reach him. In the exchange that
3 followed I had another round pass through my right leg, while another entered my
4 left side and lodged in the disc between L3 and L4 - where it remains today. Having
5 emptied the 8 rounds in my pistol, I tried to reload. However, with a broken arm
6 and temporary paralysis from the waist down, I was unable to reach my spare
7 magazine in my left rear pants pocket. Fortunately, at that time the suspect quickly
8 surrendered to my converging surveillance team. Very little pain was initially
9 associated with my wounds and I could have 'fought on' if more ammunition had
10 been available. A total of 18-rounds were fired.

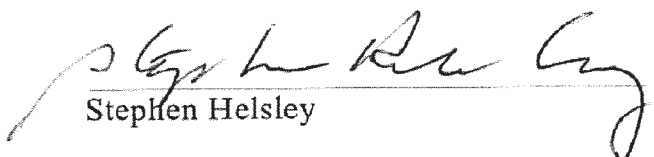
11 15. Four years later, I was making an undercover cocaine purchase with a
12 new member of my team. I had involved myself to evaluate his performance. The
13 three suspects, two of whom were armed (initially unbeknownst to us) had decided
14 that robbery was a better option than delivering the cocaine. The junior agent was
15 taken hostage and was being held in the state undercover car with a sawed-off rifle
16 to the back of his head and a revolver held against his right side. I was across the
17 street in another undercover car with the money the suspects wanted. I informed the
18 surveillance team that I was going to approach the other vehicle to see what I could
19 do. When I got to the car it was difficult to determine what was happening, as it was
20 a dark, rainy night. I told the agent to exit the vehicle and as he opened the car door
21 and dived out, two shots were fired at him – both missed. I returned fire at the area
22 of the muzzle flash inside the car. Of the eight rounds I fired, the automobile glass
23 defeated most. However, one .45 bullet hit the suspect holding the rifle, causing
24 him serious internal injuries. The suspect with the revolver came out of the
25 passenger door and was struck through the shin with a .45 bullet from a member of
26 the surveillance team who had quietly closed-in on the vehicle. After a short pause
27 the suspects were ordered out of the vehicle. Both of those with gunshot wounds
28 came out fighting. A flashlight to the chin produced the 'stopping power' for the

1 suspect with the internal wound. The suspect with the leg wound was unaware of
2 his injury until he saw the massive blood loss – whereupon he exclaimed “I’m
3 bleeding” and passed out. Twenty-eight rounds were fired into the vehicle with only
4 two hits. For my actions in this incident I was awarded the department’s Medal of
5 Valor. The ‘take away’ from these incidents is that serious bullet wounds aren’t
6 necessarily incapacitating and that gunfights can require lots of ammunition.

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

Executed within the United States on May 18, 2017.


Stephen Helsley

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
WADDELL, CALIFORNIA RIFLE &
PISTOL ASSOCIATION,
INCORPORATED, a California
corporation,

Case No: 17-cv-1017-BEN-JLB
CERTIFICATE OF SERVICE

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; and DOES 1-10,

Defendant.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 E. Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.


I have cause service of the following documents, described as:

DECLARATION OF STEPHEN HELSLEY IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

on all parties by placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Long Beach, CA, on May 26, 2017.

Ms. Alexandra Robert Gordon
Mr. Anthony P. O'Brien
California Department of Justice
1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2017, at Long Beach, CA.



Laura Palmerin

ER2433

1 C. D. Michel - SBN 144258
Sean A. Brady - SBN 262007
2 Anna M. Barvir - SBN 268728
Matthew D. Cubeiro - SBN 291519
3 MICHEL & ASSOCIATES, P.C.
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: (562) 216-4444
5 Facsimile: (562) 216-4445
Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs
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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE,
11 DAVID MARGUGLIO,
CHRISTOPHER WADDELL, and
12 CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,
13 a California corporation,

14 Plaintiffs,

15 v.
16

17 XAVIER BECERRA, in his official
capacity as Attorney General of the
18 State of California, and DOES 1-10,

19 Defendants.
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Case No: 17-cv-1017-BEN-JLB

**DECLARATION OF GARY KLECK
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION; EXHIBIT MMM**

Date: June 13, 2017
Time: 10:00 a.m.
Dept: 5A
Judge: Hon. Roger T. Benitez

DECLARATION OF GARY KLECK

My Qualifications

1
2
3 1. I am an emeritus Professor of Criminology and Criminal Justice at
4 Florida State University. I received my doctorate in Sociology from the University
5 of Illinois in 1979, where I received the University of Illinois Foundation
6 Fellowship in Sociology. I was, at the time of my retirement in May, 2016, the
7 David J. Bordua Professor of Criminology at Florida State University, where I
8 served on the faculty from 1978 to 2016. My research has focused on the impact of
9 firearms and gun control on violence, and I have been called “the dominant social
10 scientist in the field of guns and crime” (Vizzard, 2000, p. 183).

11 2. I have published the most comprehensive reviews of evidence
12 concerning guns and violence in the scholarly literature, which informs and serves
13 as part of the basis of my opinions. I am the author of Point Blank: Guns and
14 Violence in America, which won the 1993 Michael J. Hindelang Award of the
15 American Society of Criminology, awarded to the book of the previous several
16 years which "made the most outstanding contribution to criminology." I also
17 authored Targeting Guns (1997) and, with Don B. Kates, Jr., The Great American
18 Gun Debate (1997) and Armed (2001) – books that likewise addressed the topic of
19 guns and violence.

20 3. I have also published scholarly research articles in virtually all of the
21 leading professional journals in my field. Specifically, my articles have been
22 published in the American Sociological Review, American Journal of Sociology,
23 Social Forces, Social Problems, Criminology, Journal of Criminal Law and
24 Criminology, Law & Society Review, Journal of Research in Crime and
25 Delinquency, Journal of Quantitative Criminology, Law & Contemporary
26 Problems, Law and Human Behavior, Law & Policy Quarterly, Violence and
27 Victims, Journal of the American Medical Association, and other scholarly
28 journals.

1 4. I have testified before Congress and state legislatures on gun control
2 issues, and worked as a consultant to the National Research Council, National
3 Academy of Sciences Panel on the Understanding and Prevention of Violence, as a
4 member of the U.S. Sentencing Commission's Drugs-Violence Task Force, and as a
5 member of the Institute of Medicine and National Research Council Committee on
6 Priorities for a Public Health Research Agenda to Reduce the Threat of Firearm-
7 Related Violence. I am a referee for over a dozen professional journals, and serve as
8 a grants consultant to the National Science Foundation.

9 5. Finally, I have taught doctoral students how to do research and evaluate
10 the quality of research evidence, and have taught graduate courses on research
11 design and causal inference, statistical techniques, and survey research
12 methodology. My current curriculum vitae is attached as Exhibit MMM.

13 6. I am being compensated for my work at the rate of \$400 per hour.

14 **Opinions and Supporting Evidence**

15 7. Criminals rarely fire large numbers of rounds in a given crime incident,
16 so possession of magazines capable of holding more than ten rounds of ammunition
17 (termed "large-capacity magazines" and thus referred to as "LCMs" hereafter)
18 merely provides, in the typical violent gun crime, surplus rounds that are not fired
19 and thus cannot injure additional victims.

20 8. Supporting Evidence: A study of Jersey City, NJ, found that offenders
21 did not even fire a single shot in over two-thirds of crimes in which the offender
22 was armed with a handgun (Reedy and Koper 2003, p. 153). Of all violent crimes
23 in which handguns *were* fired, only 2.5-3.0% involved more that 10 rounds being
24 fired by the offender (p. 154). Even if we consider only incidents in which semi-
25 automatic pistols *were* fired, only 3.6-4.2% of the incidents involved over 10
26 rounds being fired, which is in turn only 1.7-2.0% of *all* handgun violent crimes
27 (whether the gun was fired or not). The average number of rounds fired was 3.23-
28 3.68 in semi-automatic pistol incidents in which the gun was fired, and 2.30-2.58 in

1 revolver incidents in which the gun was fired. Likewise, a study of gun homicides
2 in Philadelphia found even fewer shots fired per incident than in the Jersey City
3 study – only 2.7 shots per semi-automatic pistol killing in 1990 (McGonigal et al.
4 1993).

5 9. The only kind of shootings in which large numbers of rounds are
6 commonly fired are mass shootings, incidents that involve many victims. Mass
7 shootings fortunately are quite rare in absolute terms. For the most recent year for
8 which we have complete data, 2016, there were 37 known incidents with more than
9 6 persons shot (tabulated from Gun Violence Archive 2017). Even in the extremely
10 rare mass shootings in which large numbers of victims were shot, the shooters
11 virtually never needed LCMs to injure or kill as many victims as they did, because
12 they either (a) possessed multiple guns, (b) possessed multiple magazines that they
13 were able to change out, or (c) had ample time and opportunity to reload their
14 firearm(s) or magazine(s). Therefore, even the hypothetical potential for reducing
15 harm or improving the public’s safety by limiting magazine capacity to no more
16 than 10 rounds can be fairly described as being limited to no more than a very small
17 subset of already very rare events.

18 10. One earlier study of mass shootings (more than six victims wounded or
19 killed) that occurred in the United States over a ten year period (1984-1993
20 inclusive) found that offenders possessed multiple guns in thirteen of the fifteen
21 incidents (about 87%), and in one of the two remaining cases (the Colin Ferguson
22 case in New York in 1993) the offender reloaded at least once. Thus, the killers in
23 mass shootings did not need LCMs to quickly fire large numbers of rounds or
24 wound large numbers of victims – they either just switched loaded guns or reloaded
25 their guns without interference from bystanders (Kleck 1997, pp. 124-126, 144).

26 11. I have updated this analysis of mass shootings beyond my published
27 analysis covering 1984-1993. All shooting incidents involving more than six
28 victims shot (fatally or non-fatally, not including the offenders) for the period 1994

1 through July 2013 inclusive that were known to have involved a LCM were
2 examined based on news media accounts, and occasionally official reports. The
3 analysis was confined to incidents involving more than six victims because the
4 proposition that the use of LCMs affects the number of people killed or wounded is
5 most likely to be supported in incidents with many victims. The cut-off of six
6 victims was chosen because it would be virtually impossible to shoot more than six
7 victims using a traditional 6-shot revolver without reloading.

8 12. I supplemented my list of mass shootings with a list of mass shootings
9 that involved use of LCMs compiled by the Violence Policy Center, an advocacy
10 organization that favors strong gun control laws and specifically supports bans on
11 LCMs. They gathered an arguably comprehensive set of shootings in which
12 magazines of capacity 15 or more were used by the shooters (Violence Policy
13 Center 2013). I used this list to supplement my list because VPC was well-
14 motivated to locate every mass shooting involving the use of an LCM, as they
15 clearly favored the notion that use of LCMs leads to a larger death toll in mass
16 shootings (Violence Policy Center 2011). Thus, I sought to compile as
17 comprehensive a list of LCM-involved mass shooting incidents as possible.

18 13. The updated results covering 1994-2013 confirmed the conclusions of
19 the 1984-1993 analysis – LCMs were not needed for mass shooters to kill or injure
20 as many victims as they did (Kleck 2016). The killer in every single mass shooting
21 known to have involved a LCM was either armed with multiple guns or had
22 multiple magazines. There were a total of 23 mass shootings (i.e., incidents with
23 more than 6 victims killed or wounded in a single incident) that were known to
24 have involved LCMs in the U.S. in 1994-2013. The shooter was known to have
25 possessed multiple guns in 17 of these 23 mass shootings in which LCMs were
26 used. The shooters in these 17 incidents therefore could continue firing simply by
27 switching guns, even if they had not possessed an LCM. Further, the shooters were
28 known to have possessed multiple magazines in *all* 23 incidents and could therefore

1 continue firing large numbers of rounds simply by switching magazines. Thus, all
2 the shooters in these incidents possessed either multiple guns or multiple
3 magazines. *There was not a single mass shooting in which the offender used an*
4 *LCM, and possessed just one gun and just one magazine in his immediate*
5 *possession.* Thus, even if LCMs had not been available, all of the shooters could
6 have fired large numbers of rounds without significant interruption simply by firing
7 multiple guns or using a single gun but changing smaller capacity magazines – an
8 action that takes only 2-4 seconds.

9 14. One circumstance in which use of an LCM might affect the number of
10 casualties even if the shooter possessed multiple guns or multiple magazines is if
11 there were bystanders willing to tackle the shooter during his attempt to change
12 magazines or firearms. The use of an LCM prior to that time could affect the
13 number of victims shot, since the killer could have fired more rounds before
14 needing to reload or switch guns. There was at most only one LCM-involved mass
15 shooting in this 20-year period in which intervenors tackled the shooter while he
16 was reloading a semiautomatic gun – the incident in Tucson, AZ in which a man
17 tried to kill Representative Gabrielle Gifford

18 15. Even regarding this unique incident, key details are in dispute, making
19 it unclear whether bystanders intervened while the shooter was reloading. The
20 shooter was indeed tackled by bystanders, but some eyewitness statements
21 indicated that the shooter was not pausing in his shooting because he needed to
22 reload, but rather because a spring in his magazine had broken (*New York Times*
23 January 10, 2011, p. A1). Since magazines of any size can malfunction, this sort of
24 opportunity for bystander intervention would occur regardless of the capacity of
25 magazines used by mass shooters. There were no other mass shootings by shooters
26 using LCMs known to me in this 20-year period in which the shooter was disrupted
27 by bystanders while attempting to reload or switch guns.

28

1 16. It might be speculated that, if mass shooters were denied LCMs, and
2 consequently had to reload more often, this would slow the shooter's average rate
3 of fire and extend the time the killer was not shooting, allowing some prospective
4 victims additional time to escape. While this speculation has some *a priori*
5 plausibility, it is nevertheless inconsistent with the rates of fire sustained in actual
6 mass shootings. A change of the box-type magazines used in semi-automatic
7 pistols and rifles takes approximately 2-4 seconds generally, depending on the
8 shooter's skill and stress level. Virtually all mass shooters, however, fire their guns
9 at an average rate no faster than one round every 2 seconds, and usually fire at even
10 slower rates. That is, the time interval that shooters need to change magazines is
11 usually shorter than the interval between shots fired by actual mass shooters even
12 when they are not reloading (Kleck 2016). Thus the need to switch magazines
13 would almost never slow the rate of fire maintained by mass shooters, and would
14 therefore almost never give victims additional time to escape during pauses in the
15 shooting.

16 17. Table 3 of Kleck (2016) summarizes data on all 25 known LCM-
17 involved mass shootings in the U.S. during 1994-2013 for which news media
18 accounts provided information on both the number of shots fired and the time span
19 in which shots were fired, thereby allowing reasonable computation of rates of fire.
20 Only 3 shooters of the 21 total took less than 2 seconds per shot fired, and only 6
21 took under 4 seconds. Even with this handful of incidents with unusually rapid fire,
22 however, the difference between (a) the 1.4 or 1.6 seconds average interval between
23 shots observed in the two incidents with the fastest rates of fire, and (b) the 2-4
24 seconds that it takes to change a box-type magazine is not likely to even be
25 perceptible to would-be intervenors. That is, they would be unlikely to even be
26 aware of the very slight slowing of the killer's rate of fire necessitated by his
27 changing of magazines. In sum, even if LCM bans forced some mass shooters to
28 use smaller capacity magazines and therefore change magazines earlier and/or more

1 often, it is unlikely that it would perceptibly reduce those offenders' rate of fire and
2 thereby allow victims to take additional evasive actions that they otherwise would
3 not have been able to take.

4 18. In contrast, limits on magazine capacity are likely to sometimes impair
5 the ability of citizens to engage in lawful self-defense, in those crime incidents
6 necessitating that the victim fire many rounds in order to stop the aggressive actions
7 of offenders. In contrast to mass shooters, victims of crimes generally cannot plan
8 for or anticipate crimes to occur at a specific time and place – these things are
9 beyond their control. Therefore, they ordinarily cannot plan, as mass shooters do,
10 to routinely have many loaded guns and/or numerous magazines with them at the
11 times and places in which particular crimes against them might occur. Victims who
12 wish to defend themselves with firearms usually have to make do with a single
13 available gun and its ammunition capacity. Consequently, if their one gun or
14 magazine's capacity was limited to 10 or fewer rounds, this means they could not
15 fire more than 10 rounds at offenders attempting to harm them. Further, persons
16 who are law-abiding would be unlikely to simply violate the law and acquire
17 banned LCMs, as criminals, by definition, freely do.

18 19. Some defensive gun uses (DGUs) are likely to require large numbers of
19 rounds being fired either because (a) the crime victim faces multiple offender
20 adversaries who will not stop their aggression unless shot or fired upon, and/or
21 because (b) the victim will, under the stressful conditions of a crime victimization,
22 miss with most of his or her shots.

23 20. Regarding the first point, the 2008 U.S. Department of Justice's
24 National Crime Victimization survey, indicated that 17.4% of violent crimes in the
25 United States involved two or more offenders, and that nearly 800,000 violent
26 crimes occurred in 2008 in which the victim faced multiple offenders. Some of the
27 victims in these 800,000 multiple-offender crimes would need to fire larger
28 numbers of rounds to protect themselves because they would face multiple criminal

1 adversaries. Regarding the second point, a reasonable estimate of the
2 marksmanship of crime victims using guns for self-defense can be inferred from a
3 review of the many detailed studies that have been done of shootings by police
4 officers in which the officers were trying to shoot criminal adversaries. In many of
5 these shootings, the officers fired large numbers of rounds. Yet, in 63% of the
6 incidents, the officers failed to hit even a single offender with even a single round
7 (Geller and Scott 1993).

8 21. Police officers have the experience, training, and temperament to
9 handle stressful, dangerous situations, so marksmanship among civilians using guns
10 for self-protection may be even lower than the 37% “hit rate” of police. “Hit rate”
11 here means the percent of incidents in which the police officer achieved at least one
12 hit, not the percent of shots fired that hit the criminal. Since some incidents
13 involved multiple shots being fired, the fraction of shots that hit the criminal would
14 necessarily be even lower than the fraction of incidents in which the shooter
15 achieved at least one hit, i.e. under 37%. There is no reliable empirical evidence
16 that civilian marksmanship in such situations is better than that of police officers,
17 civilians are likely to wound a criminal with less than 37% of their shots. Thus,
18 these data indicate that the typical crime victim would have to fire at least three
19 rounds in order to successfully hit each offender they tried to shoot just once.
20 Crime victims facing four offenders, for example, would therefore need, on
21 average, at least 12 rounds or more to hit all four of them just once. A ban on
22 magazines with more than 10 rounds would make it impossible to fire this many
23 rounds using a single magazine.

24 22. No one knows the number of DGUs by crime victims that involved use
25 of LCMs or the firing of more than 10 rounds, but the number is almost certain to
26 be larger than the number of crimes in which LCM use caused a larger number of
27 victims to be injured or killed, for two reasons. First, the number of criminal uses
28 in which LCM use caused a larger number of victims to be injured or killed is, as

1 previously noted, close to zero; at most, LCM use affected the casualty count in
2 only a single mass shooting in the twenty-year period from 1994 to 2013.
3 Therefore, even a tiny number of DGUs requiring an LCM for effective self-
4 defense would outnumber criminal uses in which LCM use affected the number of
5 victims killed or injured. Second, the *total* number of DGUs by crime victims,
6 without regard to number of rounds fired or use of LCMs, is far larger (perhaps five
7 times larger) than the total number of crimes committed by offenders using guns
8 (Kleck and Gertz 1995), suggesting that LCM-involved defensive gun uses likewise
9 are likely to outnumber LCM-involved criminal uses.

10 23. Regarding the second point, the most detailed survey of DGUs, based
11 on the largest sample of U.S. adults (n=4,977) ever used in such a survey, was
12 conducted in 1993. The researchers found that 1.32% of U.S. adults (age 18+) had
13 used a gun defensively, either firing the gun at, or threatening, a criminal offender
14 in the preceding 12 months. Multiplying this times the size of the adult population
15 yielded an estimate of 2.55 million DGUs in the preceding year (Kleck and Gertz
16 1995). This estimate was consistent with estimates derived from many other,
17 smaller scale, surveys (Kleck 2001). (Criticism of this estimate has been
18 uninformative due to an exclusive one-sided focus on errors tending to make the
19 estimate too large, while ignoring well-known factors discouraging the reporting of
20 crimes in general, and possession or use of guns in particular - see Kleck 2001).

21 24. In that same year, there were no more than 554,000 crimes committed
22 in which offenders fired a gun or used it to threaten a victim (Kleck and Gertz 1995,
23 pp. 169-170), indicating there were about five times as many DGUs as there were
24 crimes in which offenders used guns. At least 18 other national surveys have
25 likewise yielded estimates of the national total of DGUs that exceeded the NCVS
26 estimates of criminal uses of guns (Kleck 2001).

27 25. If LCMs were banned, some law-abiding citizens, like many criminals,
28 could acquire multiple smaller capacity magazines as a substitute for banned larger

1 capacity magazines. This development would to some extent defeat the purpose of
2 the magazine capacity limit. Some crime victims, however, will not be able to make
3 effective use of multiple magazines. Under the intense emotional stress of a crime
4 victimization, when the victim's hands are likely to be shaking violently, it will
5 often be impossible for victims to eject the expended magazine and insert a new one
6 quickly enough to make effective use of the second magazine. Elderly or physically
7 handicapped persons may even find it physically impossible for them to quickly
8 change magazines.

9 26. By definition, criminals obey laws at a lower rate than non-criminals,
10 so violation of legal limits on magazine capacity are likely to occur at a higher rate
11 among criminals than among non-criminals. That is, such a law will reduce
12 possession of LCMs more among law-abiding citizens than among criminals, and
13 thus more among non-criminal victims and prospective victims than among
14 criminal offenders.

15 27. Points (23)-(26) in combination logically lead to the conclusion that a
16 law limiting the maximum capacity of magazines to no more than 10 rounds will
17 reduce (a) DGUs by victims who needed to fire large numbers of rounds to
18 effectively defend themselves and were able to successfully do so more than it will
19 reduce (b) criminal attacks in which offender use of LCMs caused larger numbers
20 of victims to be killed or injured.

21 28. Victim DGU is generally effective (Tark and Kleck 2004). That is, it
22 makes it less likely the victim will be injured or lose property. Consequently, a law
23 that obstructs DGU by crime victims impairs their capacity for effective self-
24 protection and increases the likelihood of the victims suffering injury or property
25 loss.

26 29. Analyses of data generated by the U.S. Census Bureau's National
27 Crime Victimization Survey (NCVS) have consistently indicated that crime victims
28 who use guns for self-protection are less likely to be injured or lose property than

1 victims who do not (Kleck 1988; Kleck and DeLone 1993; Southwick 2000; Kleck
2 2001, Chapter 7; Tark and Kleck 2004). More specifically, DGU is more effective
3 in preventing serious injury than any other victim self-protection strategy, among
4 the 16 strategies covered in the NCVS (Tark and Kleck 2004, pp. 891-894).

5 30. Opinions 28 through 29 in combination logically lead to the conclusion
6 that a law limiting magazine capacity to no more than ten rounds will do more harm
7 than good, because it will reduce (a) the harm-*preventing* effects of victim DGU
8 more than it will reduce (b) the extremely rare harm-*causing* effects of offender use
9 of LCMs.

10 31. This conclusion not only follows logically from opinions 28 through
11 29, but is also supported by actual experience with the federal ban on LCMs
12 (defined as holding over 10 rounds) that was in effect nationwide from 1994 to
13 2004. A U.S. Department of Justice-funded evaluation found that there was “no
14 discernible reduction in the lethality or injuriousness of gun violence during the
15 post-ban years” (Koper 2013, p. 165; see also Koper 2004, p. 96). Although the
16 author of the evaluation argued that the federal ban would eventually have benefits
17 if it were allowed to persist long enough, this claim was basically speculative, not
18 based on any actual observed changes in violence, at least none that he cited to.

19 32. In sum, the best available evidence indicates that California’s ban on
20 LCMs is more likely, on net, to harm the safety of its citizens than to improve it.

21
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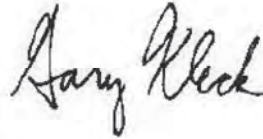
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I declare under penalty of perjury that the foregoing is true and correct.

Executed within the United States on May 26, 2017.



Gary Kleck

EXHIBIT MMM

CURRICULUM VITAE

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(Updated December 2, 2016)

PERSONAL

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EDUCATION

A.B. 1973 - University of Illinois, with High Honors and with Distinction
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A.M. 1975 - University of Illinois at Urbana, in Sociology

Ph.D. 1979 - University of Illinois at Urbana, in Sociology

ACADEMIC HONORS

National Merit Scholar, 1969

Freshman James Scholar, University of Illinois, 1969

Graduated from University of Illinois with High Honors and with Distinction in
Sociology, 1973

University of Illinois Foundation Fellowship in Sociology, 1975-76

1993 Winner of the Michael J. Hindelang Award of the American Society of
Criminology, for the book that made "the most outstanding contribution to
criminology" (for Point Blank: Guns and Violence in America).

Awarded Named Professorship, Florida State University, 2012.

Nominated for University Teaching Award, Florida State University, 2014.

TEACHING POSITIONS

May 2016 to present	Emeritus Professor, College of Criminology and Criminal Justice, Florida State University
Fall, 1991 to May 2016	Professor, College of Criminology and Criminal Justice, Florida State University
Fall, 1984 to Spring, 1991	Associate Professor, School of Criminology, Florida State University.
Fall, 1979 to Spring, 1984	Assistant Professor, School of Criminology, Florida State University.
Fall, 1978 to Spring, 1979	Instructor, School of Criminology, Florida State University.

COURSES TAUGHT

Criminology, Applied Statistics, Regression, Introduction to Research Methods, Law Enforcement, Research Methods in Criminology, Guns and Violence, Violence Theory Seminar, Crime Control, Assessing Evidence, Survey Research, Research Design and Causal Inference.

DISSERTATION

Homicide, Capital Punishment, and Gun Ownership: An Aggregate Analysis of U.S. Homicide Trends from 1947 to 1976. Department of Sociology, University of Illinois, Urbana. 1979.

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- 1993 (with Miriam DeLone) "Victim resistance and offender weapon effects in robbery." Journal of Quantitative Criminology 9(1):55-82.
- 1993 (with E. Britt Patterson) "The impact of gun control and gun ownership levels on violence rates." Journal of Quantitative Criminology 9(3):249-287.
- 1993 "Bad data and the 'Evil Empire': interpreting poll data on gun control." Violence and Victims 8(4):367-376.
- 1995 "Guns and violence: an interpretive review of the field." Social Pathology 1(1):12-47.
- 1995 "Using speculation to meet evidence." Journal of Quantitative Criminology 11(4):411-424.
- 1995 (with Marc Gertz) "Armed resistance to crime: the prevalence and nature of self-defense with a gun." Journal of Criminal Law & Criminology 86(1):150-187.
- 1996 "Crime, culture conflict and sources of support for gun control: a multi-level application of the General Social Surveys." American Behavioral Scientist 39(4):387-404.
- 1996 (with Chester Britt III and David J. Bordua) "A reassessment of the D.C. gun law: some cautionary notes on the use of interrupted time series designs for policy impact assessment." Law & Society Review 30(2):361-380.
- 1996 (with Chester Britt III and David J. Bordua) "Avoidance and misunderstanding." Law & Society Review 30(2):393-397.

- 1997 (with Marc Gertz) "The illegitimacy of one-sided speculation: getting the defensive gun use estimate down." Journal of Criminal Law and Criminology 87(4):1446-1461.
- 1997 (with Tomislav Kovandzic and Marc Gertz) "Defensive gun use: vengeful vigilante imagery vs. reality: results from the National Self-Defense Survey." Journal of Criminal Justice 26(3):251-258.
- 1998 (with Marc Gertz) "Carrying guns for protection: results from the National Self-Defense Survey." Journal of Research in Crime and Delinquency 35(2):193-224.
- 1998 "What are the risks and benefits of keeping a gun in the home?" Journal of the American Medical Association 280(5):473-475.
- 1998 (with Charles Crawford and Ted Chiricos) "Race, racial threat, and sentencing of habitual offenders." Criminology 36(3):481-511.
- 1999 (with Michael Hogan) "A national case-control study of homicide offending and gun ownership." Social Problems 46(2):275-293.
- 1999 "BATF gun trace data and the role of organized gun trafficking in supplying guns to criminals." St. Louis University Public Law Review 18(1):23-45.
- 2001 "Can owning a gun really triple the owner's chances of being murdered?" Homicide Studies 5:64-77.
- 2002 (with Theodore Chiricos) "Unemployment and property crime: a target-specific assessment of opportunity and motivation as mediating factors." Criminology 40(3):649-680.

- 2004 “Measures of gun ownership levels for macro-level crime and violence research.”
Journal of Research in Crime and Delinquency 41(1):3-36.
- 2004 (with Jongyeon Tark) “Resisting crime: the effects of victim action on the
outcomes of crimes.” Criminology 42(4):861-909.
- 2005 (with Brion Sever, Spencer Li, and Marc Gertz) “The missing link in general
deterrence research.” Criminology 43(3):623-660.
- 2006 (with Jongyeon Tark and Jon J. Bellows) “What methods are most frequently
used in research in criminology and criminal justice?” Journal of Criminal Justice
34(2):147-152.
- 2007 “Are police officers more likely to kill African-American suspects?”
Psychological Reports 100(1):31-34.
- 2007 (with Shun-Yung Wang and Jongyeon Tark) “Article productivity among the
faculty of criminology and criminal justice doctoral programs, 2000-2005.”
Journal of Criminal Justice Education 18(3):385-405.
- 2008 (with Jongyeon Tark, Laura Bedard, and Dominique Roe-Sepowitz) “Crime
victimization and divorce.” International Review of Victimology 15(1):1-17.
- 2009 “The worst possible case for gun control: mass shootings in schools.”
American Behavioral Scientist 52(10):1447-1464.
- 2009 (with Shun-Yung Wang) “The myth of big-time gun trafficking and the
overinterpretation of gun tracing data.” UCLA Law Review 56(5):1233-1294.
- 2009 (with Tomislav Kovandzic) “City-level characteristics and individual handgun
ownership: effects of collective security and homicide.” Journal of Contemporary

- Criminal Justice 25(1):45-66.
- 2009 (with Marc Gertz and Jason Bratton) "Why do people support gun control?"
Journal of Criminal Justice 37(5):496-504.
- 2011 (with James C. Barnes) "Article productivity among the faculty of criminology
and criminal justice doctoral programs, 2005-2009." Journal of Criminal Justice
Education 22(1):43-66.
- 2011 (with Tomislav Kovandzic, Mark Saber, and Will Hauser). "The effect of
perceived risk and victimization on plans to purchase a gun for self-protection."
Journal of Criminal Justice 39(4):312-319.
- 2013 (with Will Hauser) "Guns and fear: a one-way street?" Crime and Delinquency
59:271-291.
- 2013 "Gun control after Heller and McDonald: what cannot be done and what ought to
be done." Fordham Urban Law Journal 39(5):1383-1420.
- 2013 (with J. C. Barnes) "Deterrence and macro-level perceptions of punishment
risks: is there a "collective wisdom?" Crime and Delinquency 59(7):1006-1035.
- 2013 (with Tomislav Kovandzic and Mark Schaffer) "Estimating the causal effect of
gun prevalence on homicide rates: A local average treatment effect
approach." Journal of Quantitative Criminology 28(4):477-541.
- 2014 (with Jongyeon Tark) "Resisting rape: the effects of victim self-protection on
rape completion and injury." Violence Against Women 23(3): 270-292.
- 2014 (with J. C. Barnes) "Do more police generate more crime deterrence?"
Crime and Delinquency 60(5):716-738.

- 2015 "The impact of gun ownership rates on crime rates: a methodological review of the evidence." Journal of Criminal Justice 43(1):40-48.
- 2016 (with Tom Kovandzic and Jon Bellows) "Does gun control reduce violent crime?" Criminal Justice Review 41:488-513.
- 2016 "Objective risks and individual perceptions of those risks." Criminology & Public Policy 15:767-775.
- 2016 (with Dylan Jackson) "Adult unemployment and serious property crime: A national case-control study." Journal of Quantitative Criminology 32:489-513.
- 2016 "The effect of large-capacity magazines on the casualty count of mass shootings." Justice Research and Policy 17:28-47.
- 2016 (with Will Hauser) "Confidence in the police and fear of crime: do police force size and productivity matter?" American Journal of Criminal Justice. Published online 2-12-16.
- 2016 (with Bethany Mims) "Article productivity among the faculty of criminology and criminal justice doctoral programs, 2010-2014." Journal of Criminal Justice Education. Published online 3-11-16.
- 2016 (with Dylan Jackson) "Does crime cause punitiveness?" Crime & Delinquency. Published online 3-27-16.

OTHER PUBLISHED ARTICLES

- 1985 "Policy lessons from recent gun control research." Law and Contemporary Problems 49(1):35-62.

- 1992 "Assault weapons aren't the problem." New York Times September 1, 1992, p. A15. Invited Op-Ed page article.
- 1993 "The incidence of violence among young people." The Public Perspective 4:3-6. Invited article.
- 1994 "Guns and self-protection." Journal of the Medical Association of Georgia 83:42. Invited editorial.
- 1998 "Using speculation to meet evidence: reply to Alba and Messner." Journal on Firearms and Public Policy 9:13-49.
- 1998 "Has the gun deterrence hypothesis been discredited?" Journal on Firearms and Public Policy 10:65-75.
- 1999 "There are no lessons to be learned from Littleton." Criminal Justice Ethics 18(1):2, 61-63. Invited commentary.
- 1999 "Risks and benefits of gun ownership - reply." Journal of the American Medical Association 282(2):136-136.
- 1999 "The misfire that wounded Colt's." New York Times October 23, 1999. Invited Op-Ed page article.
- 1999 "Degrading scientific standards to get the defensive gun use estimate down." Journal on Firearms and Public Policy 11:77-137.
- 2000 "Guns aren't ready to be smart." New York Times March 11, 2000. Invited Op-Ed page article.
- 2000 (with Chester Britt III and David J. Bordua) "The emperor has no clothes: Using

- interrupted time series designs to evaluate social policy impact." Journal on Firearms and Public Policy 12:197-247.
- 2001 "School lesson: armed self-defense works." Wall Street Journal March 27, 2001. Invited opinion article.
- 2001 "Impossible policy evaluations and impossible conclusions: a comment on Koper and Roth." Journal of Quantitative Criminology 17(1):75-80.
- 2001 "Absolutist politics in a moderate package: prohibitionist intentions of the gun control movement." Journal on Firearms and Public Policy 13:1-43.
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- 2006 "Off target." New York Sun January 5, 2006. Invited opinion article.
- 2009 "How not to study the effect of gun levels on violence rates." Journal on Firearms and Public Policy 21:65-93.
- 2011 "Mass killings aren't the real gun problem --- how to tailor gun-control measures to common crimes, not aberrant catastrophes." Wall Street Journal, January 15, 2011. Invited opinion article.
- 2011 "The myth of big-time gun trafficking." Wall Street Journal May 21, 2011. Invited opinion article.
- 2015 "Defensive gun ownership is not a myth: why my critics still have it wrong." Politico Magazine, February 17, 2015. Online at Politico.Com.
- 2016 Kleck, Gary. "The impact on crime of state laws allowing concealed weapon carrying among 18-20 Year-olds." To appear in the Journal on Firearms and Public Policy.

BOOK CHAPTERS

- 1984 (with David Bordua) "The assumptions of gun control." Pp. 23-48 in Don B. Kates, Jr. (ed.) Firearms and Violence: Issues of Regulation. Cambridge, Mass.: Ballinger.
- (Also appeared in Federal Regulation of Firearms, report prepared by the Congressional Research Service, Library of Congress, for the Committee on the Judiciary, United States Senate, 1982).
- 1984 "The relationship between gun ownership levels and rates of violence in the U.S." Pp. 99-135 in Kates, above.
- 1984 "Handgun-only gun control: a policy disaster in the making." Pp. 167-199 in Kates, above.
- 1996 "Racial discrimination in criminal sentencing." Pp. 339-344 in Crime and Society, Volume III – Readings: Criminal Justice, edited by George Bridges, Robert D. Crutchfield, and Joseph G. Weis. Thousand Oaks, Calif.: Pine Forge Press.
- 1996 "Gun buy-back programs: nothing succeeds like failure." Pp. 29-53 in Under Fire: Gun Buy-Backs, Exchanges and Amnesty Programs, edited by Martha R. Plotkin. Washington, D.C.: Police Executive Research Forum.
- 2000 "Firearms and crime." Pp. 230-234 in the Encyclopedia of Criminology and Deviant Behavior, edited by Clifton D. Bryant. Philadelphia: Taylor & Francis, Inc.

- 2001 (with Leroy Gould and Marc Gertz) "Crime as social interaction." Pp. 101-114 in What is Crime?: Controversy over the Nature of Crime and What to Do About It, edited by Stuart Henry and Mark M. Lanier. Lanham, Md.: Rowman and Littlefield.
- 2003 "Constricted rationality and the limits of general deterrence." Chapter 13 in Punishment and Social Control: Enlarged Second Edition, edited by Thomas G. Blomberg. New York: Aldine de Gruyter.
- 2004 "The great American gun debate: what research has to say." Pp. 470-487 in The Criminal Justice System: Politics and Policies, 9th edition, edited by George F. Cole, Marc Gertz, and Amy Bunger. Belmont, CA: Wadsworth-Thomson.
- 2008 "Gun control." Article in The Encyclopedia of Social Problems, edited by Vincent N. Parrillo. Thousand Oaks, CA: Sage.
- 2009 "Guns and crime." Invited chapter. Pp. 85-92 in 21st Century Criminology: A Reference Handbook, edited by J. Mitchell Miller. Thousand Oaks, CA: Sage.
- 2012 Kovandzic, Tomislav, Mark E. Schaffer, and Gary Kleck. "Gun prevalence, homicide rates and causality: A GMM approach to endogeneity bias." Chapter 6, pp. 76-92 in The Sage Handbook of Criminological Research Methods, edited by David Gadd, Susanne Karstedt, and Steven F. Messner. Thousand Oaks, CA: Sage.
- 2012 (with Kelly Roberts) "What survey modes are most effective in eliciting self-reports of criminal or delinquent behavior?" Pp. 415-439 in Handbook of Survey Methodology, edited by Lior Gideon. NY: Springer.

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BOOK REVIEWS

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- 1984 Review of Social Control, ed. by Jack Gibbs. Social Forces 63: 579-581.
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- 1988 Review of The Citizen's Guide to Gun Control, by Franklin Zimring and Gordon Hawkins, Contemporary Sociology 17:363-364.
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- 1999 Review of Crime is Not the Problem, by Franklin E. Zimring and Gordon Hawkins. American Journal of Sociology 104(5):1543-1544.

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- 2010 Review of Homicide and Gun Control: The Brady Handgun Violence Prevention Act and Homicide Rates, by J. D. Monroe. Criminal Justice Review 35(1):118-120.

LETTERS PUBLISHED IN SCHOLARLY JOURNALS

- 1987 "Accidental firearm fatalities." American Journal of Public Health 77:513.
- 1992 "Suicide in the home in relation to gun ownership." The New England Journal of Medicine 327:1878.
- 1993 "Gun ownership and crime." Canadian Medical Association Journal 149:1773-1774.
- 1999 "Risks and benefits of gun ownership." Journal of the American Medical Association 282:136.
- 2000 (with Thomas Marvell) "Impact of the Brady Act on homicide and suicide rates." Journal of the American Medical Association 284:2718-2719.
- 2001 "Violence, drugs, guns (and Switzerland)." Scientific American 284(2):12.
- 2002 "Doubts about undercounts of gun accident deaths." Injury Prevention Online (September 19, 2002). Published online at <http://ip.bmjournals.com/cgi/eletters/8/3/252>.
- 2005 "Firearms, violence, and self-protection." Science 309:1674. September 9, 2005.

UNPUBLISHED REPORT

- 1987 Violence, Fear, and Guns at Florida State University: A Report to the President's Committee on Student Safety and Welfare. Reports results of campus crime

victimization survey and review of campus police statistics on gun violence (32 pages).

RESEARCH FUNDING

- 1994 "The Impact of Drug Enforcement on Urban Drug Use Levels and Crime Rates." \$9,500 awarded by the U.S. Sentencing Commission.
- 1997 "Testing a Fundamental Assumption of Deterrence-Based Crime Control Policy." \$80,590 awarded by the Charles E. Culpeper Foundation to study the link between actual and perceived punishment levels.

PRESENTED PAPERS

- 1976 "Firearms, homicide, and the death penalty: a simultaneous equations analysis." Presented at the annual meetings of the Illinois Sociological Association, Chicago.
- 1979 "The assumptions of gun control." Presented at the Annual Meetings of the American Sociological Association, New York City.
- 1980 "Handgun-only gun control: A policy disaster in the making." Presented at the Annual Meetings of the American Society of Criminology, Washington, D.C.
- 1981 "Life support for ailing hypotheses: Modes of summarizing the evidence on racial discrimination." Presented at the Annual Meetings of the American Society of Criminology, Toronto.
- 1984 "Policy lessons from recent gun control research." Presented at the Duke University Law School Conference on Gun Control.
- 1985 "Policy lessons from recent gun control research." Presented at the Annual Meetings of the American Society of Criminology, San Diego.

- 1986 "Miscounting suicides." Presented at the Annual Meetings of the American Sociological Association, Chicago.
- 1987 (with Theodore G. Chiricos, Michael Hays, and Laura Myers) "Unemployment and crime: a comparison of motivation and opportunity effects." Annual meetings of the American Society of Criminology, Montreal.
- 1988 "Suicide, guns and gun control." Presented at the Annual Meetings of the Popular Culture Association, New Orleans.
- 1988 (with Susan Sayles) "Rape and resistance." Presented at the Annual Meetings of the American Society of Criminology, Chicago, Ill.
- 1989 (with Karen McElrath) "The impact of weaponry on human violence." Presented at the Annual Meetings of the American Sociological Association, San Francisco.
- 1989 (with Britt Patterson) "The impact of gun control and gun ownership levels on city violence rates." Presented at the Annual Meetings of the American Society of Criminology, Reno.
- 1990 "Guns and violence: a summary of the field." Presented at the Annual Meetings of the American Political Science Association, Washington, D.C.
- 1991 "Interrupted time series designs: time for a re-evaluation." Presented at the Annual Meetings of the American Society of Criminology, New Orleans.
- 1993 (with Chester Britt III and David J. Bordua) "The emperor has no clothes: Using interrupted time series designs to evaluate social policy impact." Presented at the Annual Meetings of the American Society of Criminology, Phoenix.

- 1992 "Crime, culture conflict and support for gun laws: a multi-level application of the General Social Surveys." Presented at the Annual Meetings of the American Society of Criminology, Phoenix.
- 1994 (with Marc Gertz) "Armed resistance to crime: the prevalence and nature of self-defense with a gun." Presented at the Annual Meetings of the American Society of Criminology, Miami.
- 1995 (with Tom Jordan) "The impact of drug enforcement and penalty levels on urban drug use levels and crime rates." Presented at the Annual Meetings of the American Society of Criminology, Boston.
- 1996 (with Michael Hogan) "A national case-control study of homicide offending and gun ownership." Presented at the Annual Meetings of the American Society of Criminology, Chicago.
- 1997 "Evaluating the Brady Act and increasing the utility of BATF tracing data." Presented at the annual meetings of the Homicide Research Working Group, Shepherdstown, West Virginia.
- 1997 "Crime, collective security, and gun ownership: a multi-level application of the General Social Surveys." Presented at the Annual Meetings of the American Society of Criminology, San Diego.
- 1998 (with Brion Sever and Marc Gertz) "Testing a fundamental assumption of deterrence-based crime control policy." Presented at the Annual Meetings of the American Society of Criminology, Washington, D.C.

- 1998 "Measuring macro-level gun ownership levels." Presented at the Annual Meetings of the American Society of Criminology, Washington, D.C.
- 1999 "Can owning a gun really triple the owner's chances of being murdered?" Presented at the Annual Meetings of the American Society of Criminology, Toronto.
- 2000 "Absolutist politics in a moderate package: prohibitionist intentions of the gun control movement." Presented at the Annual Meetings of the American Society of Criminology, San Francisco.
- 2001 (with Tomislav V. Kovandzic) "The impact of gun laws and gun levels on crime rates." Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2001 "Measures of gun ownership levels for macro-level violence research." Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2001 "The effects of gun ownership levels and gun control laws on urban crime rates." Presented at the Annual Meetings of the American Society of Criminology, Chicago.
- 2003 (with Tomislav V. Kovandzic) "The effect of gun levels on violence rates depends on who has them." Presented at the Annual Meetings of the American Society of Criminology, Denver.
- 2003 (with KyuBeom Choi) "Filling in the gap in the causal link of deterrence." Presented at the Annual Meetings of the American Society of Criminology, Denver.
- 2004 (with Tomislav Kovandzic) "Do violent crime rates and police strength levels in the community influence whether individuals own guns?" Presented at the Annual

- Meetings of the American Society of Criminology, Nashville.
- 2004 (with Jongyeon Tark) “Resisting crime: the effects of victim action on the outcomes of crime.” Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2005 (with Jongyeon Tark) “The impact of self-protection on rape completion and injury.” Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2004 (with Kyubeom Choi) “The perceptual gap phenomenon and deterrence as psychological coercion.” Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2005 (with Jongyeon Tark) “Who resists crime?” Presented at the Annual Meetings of the American Society of Criminology, Toronto.
- 2005 (with Jongyeon Tark and Laura Bedard) “Crime and marriage.” Presented at the Annual Meetings of the American Society of Criminology, Toronto.
- 2006 (with Shun-Yang Kevin Wang) “Organized gun trafficking, ‘crime guns,’ and crime rates.” Presented at the Annual Meetings of the American Society of Criminology, Los Angeles.
- 2006 “Are police officers more likely to kill black suspects?” Presented at the Annual Meetings of the American Society of Criminology, Los Angeles.
- 2007 (with Shun-Yang Kevin Wang) “The myth of big-time gun trafficking.” Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2007 (with Marc Gertz and Jason Bratton) “Why do people support gun control?” Presented at the Annual Meetings of the American Society of Criminology, Atlanta.

- 2008 (with J.C. Barnes) “Deterrence and macro-level perceptions of punishment risks: Is there a “collective wisdom?” Presented at the Annual Meetings of the American Society of Criminology, St. Louis.
- 2009 “The myth of big-time gun trafficking.” Presented at UCLA Law Review Symposium, “The Second Amendment and the Right to Bear Arms After DC v. Heller.” January 23, 2009, Los Angeles.
- 2009 (with Shun-Yung Wang) “Employment and crime and delinquency of working youth: A longitudinal study of youth employment.” Presented at the Annual Meetings of the American Society of Criminology, November 6, 2009, Philadelphia, PA.
- 2009 (with J. C. Barnes) “Do more police generate more deterrence?” Presented at the Annual Meetings of the American Society of Criminology, November 4, 2009, Philadelphia, PA.
- 2010 (with J. C. Barnes) “Article productivity among the faculty of criminology and criminal justice doctoral programs, 2005-2009.” Presented at the annual Meetings of the American Society of Criminology, November 18, 2010, San Francisco, CA.
- 2010 (with Will Hauser) “Fear of crime and gun ownership.” Presented at the annual Meetings of the American Society of Criminology, November 18, 2010, San Francisco, CA.
- 2010 “Errors in survey estimates of defensive gun use frequency: results from national Internet survey experiments.” Presented at the annual Meetings

- of the American Society of Criminology, November 19, 2010, San Francisco, CA.
- 2010 (with Mark Faber and Tomislav Kovandzic) “Perceived risk, criminal victimization, and prospective gun ownership.” Presented at the annual Meetings of the American Society of Criminology, November 19, 2010, San Francisco, CA.
- 2011 (with Shun-young Wang) “The impact of job quality and career commitment on delinquency: conditional or universal?” Presented at the annual Meetings of the American Society of Criminology, November 17, 2011.
- 2011 (with Moonki Hong) “The short-term deterrent effect of executions on homicides in the United States, 1984-1998.” Presented at the annual Meetings of the American Society of Criminology, November 16, 2011.
- 2011 (with Kelly Roberts) “Which survey modes are most effective in getting people to admit illegal behaviors?” Presented at the annual Meetings of the American Society of Criminology, November 17, 2011.
- 2011 (with Will Hauser) “Pick on someone your own size: do health, fitness, and size influence victim selection?” Presented at the annual Meetings of the American Society of Criminology, November 18, 2011.
- 2011 (with Tomislav Kovandzic) “Is the macro-level crime/punishment association spurious?” Presented at the annual Meetings of the American Society of Criminology, November 18, 2011.
- 2012 (with Dylan Jackson) “Adult unemployment and serious property crime: a national case-control study.” Presented at the annual Meetings of the American Society of Criminology, November 15, 2012.

- 2013 (with Will Hauser) "Confidence in the Police and Fear of Crime: Do Police Force Size and Productivity Matter?" Presented at the annual Meetings of the American Society of Criminology, November 22, 2013.
- 2013. (with Dylan Jackson) "Adult unemployment and serious property crime: a national case-control study." Presented at the annual Meetings of the American Society of Criminology, November 22, 2013.
- 2014 (with Dylan Jackson) "Does Crime Cause Punitiveness?" Presented at the annual Meetings of the American Society of Criminology, November 20, 2014.
- 2015 "The effect of large capacity magazines on the casualty counts in mass shootings." Presented at the annual Meetings of the American Society of Criminology, November 18, 2015.
- 2015 (with Bethany Mims) "Article productivity among the faculty of criminology and criminal justice doctoral programs, 2010-2014." Presented at the annual Meetings of the American Society of Criminology, November 20, 2015.

CHAIR

- 1983 Chair, session on Race and Crime. Annual meetings of the American Society of Criminology, Denver.
- 1989 Co-chair (with Merry Morash), roundtable session on problems in analyzing the National Crime Surveys. Annual meetings of the American Society of Criminology, Reno.
- 1993 Chair, session on Interrupted Time Series Designs. Annual meetings of the American Society of Criminology, New Orleans.

- 1993 Chair, session on Guns, Gun Control, and Violence. Annual meetings of the American Society of Criminology, Phoenix.
- 1994 Chair, session on International Drug Enforcement. Annual meetings of the American Society of Criminology, Boston.
- 1999 Chair, Author-Meets-Critics session, More Guns, Less Crime. Annual meetings of the American Society of Criminology, Toronto.
- 2000 Chair, session on Defensive Weapon and Gun Use. Annual Meetings of the American Society of Criminology, San Francisco.
- 2002 Chair, session on the Causes of Gun Crime. Annual meetings of the American Society of Criminology, Chicago.
- 2004 Chair, session on Protecting the Victim. Annual meetings of the American Society of Criminology, Nashville.

DISCUSSANT

- 1981 Session on Gun Control Legislation, Annual Meetings of the American Society of Criminology, Washington, D.C.
- 1984 Session on Criminal Sentencing, Annual Meetings of the American Society of Criminology, Cincinnati.
- 1986 Session on Sentencing, Annual Meetings of the American Society of Criminology, Atlanta.
- 1988 Session on Gun Ownership and Self-protection, Annual Meetings of the Popular Culture Association, Montreal.
- 1991 Session on Gun Control, Annual Meetings of the American Statistical

Association, Atlanta, Ga.

- 1995 Session on International Drug Enforcement, Annual Meetings of the American Society of Criminology, Boston.
- 2000 Session on Defensive Weapon and Gun Use, Annual Meetings of the American Society of Criminology, San Francisco.
- 2004 Author-Meets-Critic session on Guns, Violence, and Identity Among African-American and Latino Youth, by Deanna Wilkinson. Annual meetings of the American Society of Criminology, Nashville.
- 2007 Session on Deterrence and Perceptions, University of Maryland 2007 Crime & Population Dynamics Summer Workshop, Aspen Wye River Center, Queenstown MD, June 4, 2007.
- 2009 Session on Guns and Crime, at the DeVoe Moore Center Symposium On The Economics of Crime, March 26-28, 2009.
- 2012 Panel discussion of news media coverage of high profile crimes
Held at the Florida Supreme Court On September 24-25, 2012, sponsored by the Florida Bar Association as part of their 2012 Reporters' Workshop.

PROFESSIONAL SERVICE

Editorial consultant -

American Sociological Review

American Journal of Sociology

Social Forces

Social Problems

Law and Society Review

Journal of Research in Crime and Delinquency

Social Science Research

Criminology

Journal of Quantitative Criminology

Justice Quarterly

Journal of Criminal Justice

Violence and Victims

Violence Against Women

Journal of the American Medical Association

New England Journal of Medicine

American Journal of Public Health

Journal of Homicide Studies

Grants consultant, National Science Foundation, Sociology Program.

Member, Gene LeCarte Student Paper Committee, American Society of Criminology, 1990.

Area Chair, Methods Area, American Society of Criminology, annual meetings in Miami,
November, 1994.

Division Chair, Guns Division, American Society of Criminology, annual meetings in
Washington, D.C., November, 1998.

Dissertation evaluator, University of Capetown, Union of South Africa, 1998.

Division Chair, Guns Division, American Society of Criminology, annual meetings in
Washington, D.C., November, 1999.

Member of Academy of Criminal Justice Sciences selection committee for Editor of Justice Quarterly, 2007.

Outside reviewer of Dr. J. Pete Blair for promotion to Full Professor in the School of Criminal Justice at Texas State University, San Marcos, 2014.

UNIVERSITY SERVICE

Member, Master's Comprehensive Examination Committee, School of Criminology, 1979-1982.

Faculty Advisor, Lambda Alpha Epsilon (FSU chapter of American Criminal Justice Association), 1980-1988.

Faculty Senate Member, 1984-1992.

Carried out campus crime survey for President's Committee on Student Safety and Welfare, 1986.

Member, Strategic Planning and Budgeting Review Committee for Institute for Science and Public Affairs, and Departments of Physics and Economics, 1986.

Chair, Committee on Ph.D. Comprehensive Examination in Research Methods, School of Criminology, Summer, 1986.

Member, Committee on Ph.D. Comprehensive Examination in Research Methods, School of Criminology, Summer, 1986 to present.

Chair, Committee on Graduate Assistantships, School of Criminology, Spring, 1987.

Chair, Ad Hoc Committee on Computers, School of Criminology, Fall, 1987.

Member, Recruitment Committee, School of Criminology, Spring, 1988; Spring, 1989; and 1989-90 academic year.

Member, Faculty Senate Committee on Computer-Related Curriculum, Spring, 1988 to Fall, 1989.

Chair, Ad Hoc Committee on Merit Salary Distribution, School of Criminology, Spring, 1988.

Chair, Ad Hoc Committee on Enrollment Strains, Spring, 1989.

Member, Graduate Handbook Committee, School of Criminology, Spring, 1990.

Member, Internal Advisement Committee, School of Criminology Spring, 1990.

University Commencement Marshall, 1990 to 1993.

Member, School of Criminology and Criminal Justice Teaching Incentive Program award committee.

Chair, Faculty Recruitment Committee, School of Criminology and Criminal Justice, 1994-1995.

Chair, Committee on Ph.D. Comprehensive Examination in Research Methods, School of Criminology and Criminal Justice, 1994-1995.

Member, University Computer and Information Resources Committee, 1995-1998.

Member, University Fellowship Committee, 1995 to present.

Member, University Library Committee, 1996 to 1999.

Chair, Electronic Access Subcommittee, University Library Committee, 1998 to 1999.

Member, Ad Hoc Committee on Merit Salary Increase Allocation, School of Criminology and Criminal Justice, 1998-1999.

Member, Academic Committee, School of Criminology and Criminal Justice, 2000- .

Member, Recruiting Committee, School of Criminology and Criminal Justice, 2000-
2001.

Member, Promotion and Tenure Committee, School of Criminology and Criminal Justice,
2000-.

Chair, Committee on Ph.D. Comprehensive Examination in Research Methods, School of
Criminology and Criminal Justice, 2000-2002.

Chair, Promotion and Tenure Committee, School of Criminology and Criminal Justice,
2001-2002.

Faculty Adviser, School of Criminology and Criminal Justice Graduate Student
Association, 2001-present.

Member, ad hoc committee on survey research, School of Criminology and Criminal
Justice, 2002.

Coordinator of Parts 2 and 4 of the School of Criminology and Criminal Justice Unit
Review, 2002.

Chair, Academic Committee, School of Criminology and Criminal Justice, 2002-2003.

Director, Honors Programs, School of Criminology and Criminal Justice, 2002-present.

Member, University Promotion and Tenure Committee, Fall, 2003 to present.

Member of University Graduate Policy Committee, Fall 2003 to .

Director of Graduate Studies, School (later College) of Criminology and Criminal Justice,
April 2004 to May 2011.

Chair, Promotion and Tenure Committee, College of Criminology and Criminal Justice,

2005-2006

Served as major professor on Area Paper by Christopher Rosbough, completed in 2012.

Served as member of dissertation committee of Kristen Lavin, dissertation completed in 2012.

Served as member of dissertation committee of Elizabeth Stupi, dissertation completed in 2013.

Served as outside member on two dissertation committees in 2014-2015: Brian Meehan in the Department of Economics and Adam Weinstein in the English Department. Both dissertations were completed.

Served as major professor on Area Paper on legalization of marijuana for Pedro Juan Matos Silva, Spring 2015. Paper completed.

Served as major professor for doctoral student Moonki Hong, who finished his dissertation. .

PUBLIC SERVICE

Television, radio, newspaper, magazine, and Internet interviews concerning gun control, racial bias in sentencing, crime statistics, and the death penalty. Interviews and other kinds of news media contacts include Newsweek, Time, U.S. News and World Report, New York Times, Washington Post, Chicago Tribune, Los Angeles Times, USA Today, Boston Globe, Wall Street Journal, Kansas City Star, Philadelphia Inquirer, Philadelphia News, Atlanta Constitution, Atlanta Journal, Arizona Republican, San Antonio Express-News, Dallas Morning News, Miami Herald, Tampa Tribune, Jacksonville Times-Union, Womens' Day, Harper's Bazaar, Playboy, CBS-TV (60

Minutes; Street Stories) ABC-TV (World News Tonight; Nightline), NBC-TV (Nightly News), Cable News Network, Canadian Broadcasting Company, National Public Radio, Huffington Post, PolitiFact.com, and many others.

Resource person, Subcommittee on Crime and Justice, (Florida House) Speaker's Advisory Committee on the Future, February 6-7, 1986, Florida State Capitol.

Testimony before the U.S. Congress, House Select Committee on Children, Youth and Families, June 15, 1989.

Discussant, National Research Council/National Academy of Sciences Symposium on the Understanding and Control of Violent Behavior, April 1-4, 1990, Destin, Florida.

Colloquium on manipulation of statistics relevant to public policy, Statistics Department, Florida State University, October, 1992.

Speech to faculty, students, and alumni at Silver Anniversary of Northeastern University College of Criminal Justice, May 15, 1993.

Speech to faculty and students at Department of Sociology, University of New Mexico, October, 1993.

Speech on the impact of gun control laws, annual meetings of the Justice Research and Statistics Association, October, 1993, Albuquerque, New Mexico.

Testimony before the Hawaii House Judiciary Committee, Honolulu, Hawaii, March 12, 1994.

Briefing of the National Executive Institute, FBI Academy, Quantico, Virginia, March 18, 1994.

Delivered the annual Nettler Lecture at the University of Alberta, Edmonton, Canada,

March 21, 1994.

Member, Drugs-Violence Task Force, U.S. Sentencing Commission, 1994-1996.

Testimony before the Pennsylvania Senate Select Committee to Investigate the Use of

Automatic and Semiautomatic Firearms, Pittsburgh, Pennsylvania, August 16, 1994.

Delivered lectures in the annual Provost's Lecture Series, Bloomsburg University,

Bloomsburg, Pa., September 19, 1994.

Briefing of the National Executive Institute, FBI Academy, Quantico, Virginia, June 29,

1995.

Speech to personnel in research branches of crime-related State of Florida agencies,

Research and Statistics Conference, sponsored by the Office of the State Courts

Administrator, October 19, 1995.

Speech to the Third Annual Legislative Workshop, sponsored by the James Madison

Institute and the Foundation for Florida's Future, February 5, 1998.

Speech at the Florida Department of Law Enforcement on the state's criminal justice

research agenda, December, 1998.

Briefing on news media coverage of guns and violence issues, to the Criminal Justice

Journalists organization, at the American Society of Criminology annual meetings in

Washington, D.C., November 12, 1998.

Briefing on gun control strategies to the Rand Corporation conference on "Effective

Strategies for Reducing Gun Violence," Santa Monica, Calif., January 21, 2000.

Speech on deterrence to the faculty of the Florida State University School of Law, February

10, 2000.

Invited address on links between guns and violence to the National Research Council

Committee on Improving Research Information and Data on Firearms, November 15-16, 2001, Irvine, California.

Invited address on research on guns and self-defense to the National Research Council

Committee on Improving Research Information and Data on Firearms, January 16-17, 2002, Washington, D.C.

Invited address on gun control, Northern Illinois University, April 19, 2002.

Invited address to the faculty of the School of Public Health, University of Alabama, Birmingham, 2004.

Invited address to the faculty of the School of Public Health, University of Pennsylvania, March 5, 2004.

Member of Justice Quarterly Editor Selection Committee, Academy of Criminal Justice Sciences, Spring 2007

Testified before the Gubernatorial Task Force for University Campus Safety, Tallahassee, Florida, May 3, 2007.

Gave public address, "Guns & Violence: Good Guys vs. Bad Guys," Western Carolina University, Cullowhee, North Carolina, March 5, 2012.

Invited panelist, Fordham Law School Symposium, "Gun Control and the Second Amendment," New York City, March 9, 2012.

Invited panelist, community forum on "Students, Safety & the Second Amendment," sponsored by the Tallahassee Democrat.

Invited address at University of West Florida, Department of Justice Studies, titled "Guns,

Self-Defense, and the Public Interest,” April 12, 2013.

Member, National Research Council Committee on Priorities for a Public Health

Research Agenda to Reduce the Threat of Firearm-related Violence, May 2013.

Invited address at Davidson College, Davidson, NC, April 18, 2014. Invited by the

Department of Philosophy.

OTHER ITEMS

Listed in:

Marquis Who's Who

Marquis Who's Who in the South and Southwest

Who's Who of Emerging Leaders in America

Contemporary Authors

Directory of American Scholars

Writer's Directory

Participant in First National Workshop on the National Crime Survey, College Park,

Maryland, July, 1987, co-sponsored by the Bureau of Justice Statistics and the

American Statistical Association.

Participant in Second National Workshop on the National Crime Survey, Washington, D.C.,

July, 1988.

Participant, Seton Hall Law School Conference on Gun Control, March 3, 1989.

Debater in Intelligence Squared program, on the proposition “Guns Reduce

Crime.” Rockefeller University, New York City, October 28, 2008. Podcast distributed

through National Public Radio. Further details are available at

<http://www.intelligencesquaredus.org/Event.aspx?Event=36>.

Subject of cover story, “America Armed,” in Florida State University Research in Review, Winter/Spring 2009.

Grants reviewer, Social Sciences and Humanities Research Council of Canada, 2010.

Named one of “25 Top Criminal Justice Professors” in the U.S. by Forensics Colleges website (<http://www.forensicscolleges.com/>), 2014.

Expert Testimony in Past Five Years

Cook et al. v. Hickenlooper. U.S. Court for the District of Colorado. Deposed and testified March, April 2013.

Heller et al. v. District of Columbia (remand of *Heller II*). Deposed 7-2-13. Heller et al. v. District of Columbia. Deposed 7-2-13.

Wilson v. Cook County. Circuit of Cook County, Illinois County Department, Chancery Division. Deposed 9-16-13.

Kolbe v. O’Malley. U.S. District Court for the District of Maryland. Deposed 1-2-14.

Barbra Schlifer Commemorative Clinic v. HMQ Canada. “Cross-examined” (Canadian term for deposed) 2-24-14.

Dr. Arie S. Friedman and the Illinois State Rifle Association v. City of Highland Park. Deposed May or June 2014.

Tracy Rifle and Pistol v. Kamala D. Harris. U.S. District Court, Eastern District of California. Deposed 11-2-16.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
WADDELL, CALIFORNIA RIFLE &
PISTOL ASSOCIATION,
INCORPORATED, a California
corporation,

Case No: 17-cv-1017-BEN-JLB

CERTIFICATE OF SERVICE

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; and DOES 1-10,

Defendant.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 E. Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

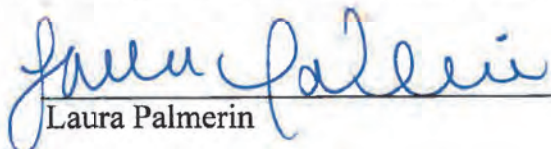
I have cause service of the following documents, described as:

DECLARATION OF GARY KLECK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; EXHIBIT MMM

on all parties by placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Long Beach, CA, on May 26, 2017.

Ms. Alexandra Robert Gordon
Mr. Anthony P. O'Brien
California Department of Justice
1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2017, at Long Beach, CA.



Laura Palmerin

ER2486

**U.S. District Court
Southern District of California (San Diego)
CIVIL DOCKET FOR CASE #: 3:17-cv-01017-BEN-JLB**

Duncan et al v. Becerra et al
Assigned to: Judge Roger T. Benitez
Referred to: Magistrate Judge Jill L. Burkhardt
Case in other court: USCA, 17-56081
Cause: 42:1983cv Civil Rights Act – Civil Action for
Deprivation of Rights

Date Filed: 05/17/2017
Jury Demand: None
Nature of Suit: 950 Constitutional – State
Statute
Jurisdiction: Federal Question

Plaintiff

Virginia Duncan

represented by **Carl D. Michel**
Michel & Associates PC
180 East Ocean Boulevard
Suite 200
Long Beach, CA 90802
(562) 216-4444
Fax: (562)216-4445
Email: cmichel@michellawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna M. Barvir
Michel & Associates, P. C.
180 East Ocean Blvd.
Suite 200
Long Beach, CA 90802
562-216-4444
Fax: 562-216-4445
Email: abarvir@michellawyers.com
ATTORNEY TO BE NOTICED

Sean Brady
Michel & Associates PC
180 East Ocean Boulevard
Suite 200
Long Beach, CA 90802
(562) 216-4444
Fax: (562) 216-4445
Email: sbrady@michellawyers.com
ATTORNEY TO BE NOTICED

Plaintiff

Richard Lewis

represented by **Carl D. Michel**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna M. Barvir
(See above for address)
ATTORNEY TO BE NOTICED

Sean Brady
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Patrick Lovette

represented by **Carl D. Michel**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Anna M. Barvir
(See above for address)
ATTORNEY TO BE NOTICED

Sean Brady
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

David Marguglio

represented by **Carl D. Michel**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna M. Barvir
(See above for address)
ATTORNEY TO BE NOTICED

Sean Brady
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Christopher Waddell

represented by **Carl D. Michel**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna M. Barvir
(See above for address)
ATTORNEY TO BE NOTICED

Sean Brady
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**California Rifle & Pistol Association,
Incorporated**
a California corporation

represented by **Carl D. Michel**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna M. Barvir
(See above for address)
ATTORNEY TO BE NOTICED

Sean Brady
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Xavier Becerra
*in his official capacity as Attorney
General of the State of California*

represented by **Attorney General**
State of California
Office of the Attorney General
110 West A Street
Suite 1100
San Diego, CA 92101-5266
(619)645-2076

Fax: (619)645-2313
 Email: docketingsdawt@doj.ca.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Alexandra Robert Gordon
 CA Dept of Justice, Attorney General's Office
 455 Golden Gate Avenue
 Suite 11000
 San Francisco, CA 94102-7004
 415-703-5509
 Fax: 415-703-5480
 Email: Alexandra.RobertGordon@doj.ca.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anthony P O'Brien
 California Office of Attorney General
 1300 I Street
 Suite 125
 Sacramento, CA 95814
 916-210-6002
 Fax: 916-324-8835
 Email: Anthony.OBrien@doj.ca.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Does 1-10

Movant

Law Center to Prevent Gun Violence

represented by **Anthony P Schoenberg**
 Pillsbury Winthrop Shaw Pittman
 50 Fremont Street
 Suite 500
 San Francisco, CA 94120-7880
 (415)983-1462
 Email: TSchoenberg@fbm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/17/2017	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0974-10088872.), filed by California Rifle & Pistol Association, Incorporated, Richard Lewis, David Margulio, Christopher Waddell, Virginia Duncan, Patrick Lovette. (Attachments: # <u>1</u> Civil Cover Sheet) The new case number is 3:17-cv-1017-BEN-JLB. Judge Roger T. Benitez and Magistrate Judge Jill L. Burkhardt are assigned to the case. (Michel, Carl)(fth) (sjt). (Entered: 05/18/2017)
05/18/2017	<u>2</u>	Summons Issued. Counsel receiving this notice electronically should print this summons and serve it in accordance with Rule 4, Fed.R.Civ.P and LR 4.1. (fth) (Entered: 05/18/2017)
05/25/2017	<u>3</u>	SUMMONS Returned Executed by California Rifle & Pistol Association, Incorporated, Richard Lewis, David Marguglio, Christopher Waddell, Virginia Duncan, Patrick Lovette. Xavier Becerra served. (Michel, Carl) (Entered: 05/25/2017)
05/25/2017	<u>4</u>	Ex Parte MOTION to Shorten Time to Hear Plaintiffs' Motion for Preliminary Injunction by California Rifle & Pistol Association, Incorporated, Virginia Duncan,

		Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell. (Attachments: # <u>1</u> Memo of Points and Authorities in Support of Ex Parte Application for Order Shortening Time, # <u>2</u> Declaration of Anna M. Barvir in Support of Ex Parte Application for Order Shortening Time, # <u>3</u> Declaration of Sean Brady in Support of Ex Parte Application for Order Shortening Time)(Michel, Carl) (Entered: 05/25/2017)
05/26/2017	<u>5</u>	ORDER Granting <u>4</u> Ex Parte Application to Shorten Time. Motion Hearing set for 6/13/2017 at 10:00 AM in Courtroom 5A before Judge Roger T. Benitez. Signed by Judge Roger T. Benitez on 5/26/2017. (jjg) (Entered: 05/26/2017)
05/26/2017	<u>6</u>	MOTION for Preliminary Injunction by California Rifle & Pistol Association, Incorporated, Virginia Duncan, Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell. (Attachments: # <u>1</u> Memo of Points and Authorities in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>2</u> Declaration of Anna M. Barvir in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>3</u> Exhibit F-G to Declaration of Anna M. Barvir, # <u>4</u> Exhibit H-V to Declaration of Anna M. Barvir, # <u>5</u> Exhibit W-GG to Declaration of Anna M. Barvir, # <u>6</u> Exhibit HH-RR to Declaration of Anna M. Barvir, # <u>7</u> Exhibit SS-LLL to Declaration of Anna M. Barvir, # <u>8</u> Declaration of Massad Ayoob in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>9</u> Declaration of James Curcuruto in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>10</u> Declaration of Steven Helsley in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>11</u> Declaration of Gary Kleck in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>12</u> Declaration of Virginia Duncan in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>13</u> Declaration of Richard Lewis in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>14</u> Declaration of Patrick Lovette in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>15</u> Declaration of David Marguglio in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>16</u> Declaration of Christopher Waddell in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>17</u> Declaration of Michael Barranco in Support of Plaintiffs' Motion for Preliminary Injunction)(Michel, Carl) (Entered: 05/26/2017)
05/30/2017	<u>7</u>	NOTICE of Appearance by Alexandra Robert Gordon on behalf of Xavier Becerra (Gordon, Alexandra)Attorney Alexandra Robert Gordon added to party Xavier Becerra(pty:dft) (Entered: 05/30/2017)
05/30/2017	<u>8</u>	AMENDED DOCUMENT by California Rifle & Pistol Association, Incorporated, Virginia Duncan, Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell. Amendment to <u>6</u> MOTION for Preliminary Injunction <i>Certificate of Service</i> . (Michel, Carl) (knb). (Entered: 05/30/2017)
06/05/2017	<u>9</u>	RESPONSE in Opposition re <u>6</u> MOTION for Preliminary Injunction filed by Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>10</u>	MOTION for Leave to File <i>Brief of Amicus Curiae</i> by Law Center to Prevent Gun Violence. (Attachments: # <u>1</u> Memo of Points and Authorities in Support of Motion for Leave to Participate as Amicus Curiae)(Schoenberg, Anthony)Attorney Anthony P Schoenberg added to party Law Center to Prevent Gun Violence(pty:mov) (knb). (Entered: 06/05/2017)
06/05/2017	<u>11</u>	AFFIDAVIT in Opposition re <u>6</u> MOTION for Preliminary Injunction of <i>Lucy Allen</i> filed by Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>12</u>	AFFIDAVIT in Opposition re <u>6</u> MOTION for Preliminary Injunction by <i>John Donohue</i> filed by Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>13</u>	AFFIDAVIT in Opposition re <u>6</u> MOTION for Preliminary Injunction by <i>Blake Graham</i> filed by Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>14</u>	AFFIDAVIT in Opposition re <u>6</u> MOTION for Preliminary Injunction by <i>Ken James</i> filed by Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>15</u>	AFFIDAVIT in Opposition re <u>6</u> MOTION for Preliminary Injunction by <i>Daniel W. Webster</i> filed by Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>16</u>	Amicus Curiae Appearance entered by Anthony P Schoenberg on behalf of Law Center to Prevent Gun Violence. (Attachments: # <u>1</u> Exhibit A to Brief of Amicus Curiae Law Center to Prevent Gun Violence in Support of Defendant's Opposition to

		Plaintiffs' Motion for Preliminary Injunction)(Schoenberg, Anthony) (knb). (Entered: 06/05/2017)
06/05/2017	<u>17</u>	AFFIDAVIT in Opposition re <u>6</u> MOTION for Preliminary Injunction of <i>Alexandra Robert Gordon</i> filed by Xavier Becerra. (Attachments: # <u>1</u> Exhibits 1–15 to Dec of Alexandra Robert Gordon)(Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/05/2017	<u>18</u>	Exhibit List <i>16–108</i> re <u>17</u> AFFIDAVIT in Opposition by Xavier Becerra. (Attachments: # <u>1</u> Exhibit 25–43, # <u>2</u> Exhibit 44–54, # <u>3</u> Exhibit 55–56, # <u>4</u> Exhibit 57–62, # <u>5</u> Exhibit 63–69, # <u>6</u> Exhibit 70–73, # <u>7</u> Exhibit 74–76, # <u>8</u> Exhibit 77–84, # <u>9</u> Exhibit 85–108)(Gordon, Alexandra) (knb). (Entered: 06/05/2017)
06/06/2017	<u>19</u>	NOTICE of Appearance by Anthony P O'Brien on behalf of Xavier Becerra (O'Brien, Anthony)Attorney Anthony P O'Brien added to party Xavier Becerra(pty:dft) (Entered: 06/06/2017)
06/07/2017	<u>20</u>	NOTICE of Appearance by Anna M. Barvir on behalf of California Rifle & Pistol Association, Incorporated, Virginia Duncan, Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell (Barvir, Anna)Attorney Anna M. Barvir added to party California Rifle & Pistol Association, Incorporated(pty:pla), Attorney Anna M. Barvir added to party Virginia Duncan(pty:pla), Attorney Anna M. Barvir added to party Richard Lewis(pty:pla), Attorney Anna M. Barvir added to party Patrick Lovette(pty:pla), Attorney Anna M. Barvir added to party David Marguglio(pty:pla), Attorney Anna M. Barvir added to party Christopher Waddell(pty:pla) (Entered: 06/07/2017)
06/07/2017	<u>21</u>	Joint MOTION for Extension of Time to File Answer by Xavier Becerra. (O'Brien, Anthony) (Entered: 06/07/2017)
06/07/2017	<u>22</u>	NOTICE of Appearance by Sean Brady on behalf of California Rifle & Pistol Association, Incorporated, Virginia Duncan, Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell (Brady, Sean)Attorney Sean Brady added to party California Rifle & Pistol Association, Incorporated(pty:pla), Attorney Sean Brady added to party Virginia Duncan(pty:pla), Attorney Sean Brady added to party Richard Lewis(pty:pla), Attorney Sean Brady added to party Patrick Lovette(pty:pla), Attorney Sean Brady added to party David Marguglio(pty:pla), Attorney Sean Brady added to party Christopher Waddell(pty:pla) (Entered: 06/07/2017)
06/09/2017	<u>23</u>	REPLY to Response to Motion re <u>6</u> MOTION for Preliminary Injunction filed by California Rifle & Pistol Association, Incorporated, Virginia Duncan, Law Center to Prevent Gun Violence, Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell. (Attachments: # <u>1</u> Supplement Objections to Defendants' Evidence in Support of Opposition to Motion for Preliminary Injunction, # <u>2</u> Declaration of Anna M. Barvir in Support of Motion for Preliminary Injunction, # <u>3</u> Declaration of Gary Kleck in Support of Motion for Preliminary Injunction)(Michel, Carl) (knb). (Entered: 06/09/2017)
06/12/2017	<u>24</u>	OBJECTION by Xavier Becerra re <u>23</u> Reply to Response to Motion,, <i>Barvir and Kleck declarations</i> . (Gordon, Alexandra) (Entered: 06/12/2017)
06/12/2017	<u>25</u>	ANSWER to <u>1</u> Complaint, by Xavier Becerra.(Gordon, Alexandra) (Entered: 06/12/2017)
06/13/2017	26	Minute Order for proceedings held before Judge Roger T. Benitez: Motion Hearing held on 6/13/2017. Submitting <u>6</u> MOTION for Preliminary Injunction filed by Virginia Duncan, Patrick Lovette, David Marguglio, California Rifle & Pistol Association, Incorporated, Christopher Waddell, Richard Lewis. Court to issue written Order. (Court Reporter/ECR Debbie OConnell). (Plaintiff Attorney Clint B. Monfort, Sean A. Brady).(Defendant Attorney Alexandra Robert Gordon). (no document attached) (gxr) (Entered: 06/14/2017)
06/15/2017	<u>27</u>	NOTICE OF RELATED CASE(S) by California Rifle & Pistol Association, Incorporated, Virginia Duncan, Richard Lewis, Patrick Lovette, David Marguglio, Christopher Waddell of case(s) 2:17-cv-00903-WBS-KJN . (Michel, Carl) Proposed Now Number Order not prepared – related case in different district on 6/16/2017 (knb). (Entered: 06/15/2017)

06/29/2017	<u>28</u>	ORDER Granting <u>6</u> Motion for Preliminary Injunction. Signed by Judge Roger T. Benitez on 6/29/2017. (knb) (Entered: 06/29/2017)
07/06/2017	<u>29</u>	NOTICE AND ORDER for Early Neutral Evaluation Conference. Early Neutral Evaluation set for 8/2/2017 02:45 PM in chambers before Magistrate Judge Jill L. Burkhardt. In the event the case does not settle at the ENE, a Case Management Conference is set for August 2, 2017 and will be held at the conclusion of the ENE Conference. Joint Discovery Plan due 7/21/2017. Signed by Magistrate Judge Jill L. Burkhardt on 7/6/2017.(knb) (Entered: 07/06/2017)
07/12/2017	<u>30</u>	DECLARATION re <u>28</u> Order on Motion for Preliminary Injunction <i>Re: Notice of Order</i> by Defendant Xavier Becerra. (Gordon, Alexandra) (knb). (Entered: 07/12/2017)
07/19/2017	<u>31</u>	REPORT of Rule 26(f) Planning Meeting. (Barvir, Anna) (Entered: 07/19/2017)
07/27/2017	<u>32</u>	NOTICE OF APPEAL to the 9th Circuit as to <u>28</u> Order granting Motion for Preliminary Injunction, by Xavier Becerra. (Filing fee \$ 505 receipt number 0974-10288817.) (Notice of Appeal electronically transmitted to US Court of Appeals.) (Gordon, Alexandra). (Main Document 32 replaced on 7/27/2017 with printed .pdf of document, which was originally e-filed as an active fillable form. Edited docket text re linked Order.) (akr). (Entered: 07/27/2017)
07/27/2017	<u>33</u>	NOTICE of Representation Statement re <u>32</u> Notice of Appeal, by Xavier Becerra. (Gordon, Alexandra). (Modified on 7/27/2017: Added link to Notice of Appeal.) (akr). (Entered: 07/27/2017)
07/28/2017	<u>34</u>	USCA Case Number 17-56081 for <u>32</u> Notice of Appeal to 9th Circuit, filed by Xavier Becerra. (akr) (Entered: 07/28/2017)
07/28/2017	<u>35</u>	ORDER of USCA as to <u>32</u> Notice of Appeal to 9th Circuit, filed by Xavier Becerra. The appeal filed July 27, 2017 is a preliminary injunction appeal. Accordingly, Ninth Circuit Rule 3-3 shall apply. The mediation questionnaire is due three days after the date of this order. If they have not already done so, within 7 calendar days after the filing date of this order, the parties shall make arrangements to obtain from the court reporter an official transcript of proceedings in the USDC that will be included in the record on appeal. Briefing schedule issued and instructions issued. Failure to file timely the opening brief shall result in the automatic dismissal of this appeal by the Clerk for failure to prosecute. (akr) (Entered: 07/28/2017)
08/02/2017	<u>36</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings (Motion Hearing) held on 6/13/2017, before Judge Roger T. Benitez. Court Reporter/Transcriber: Deborah M. O'Connell. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 8/23/2017. Redacted Transcript Deadline set for 9/5/2017. Release of Transcript Restriction set for 10/31/2017. (akr) (Entered: 08/02/2017)
08/02/2017	37	Minute Entry for proceedings held before Magistrate Judge Jill L. Burkhardt: Telephonic Early Neutral Evaluation Conference held on 8/2/2017. The case did not settle. Telephonic Case Management Conference held on 8/2/2017. Scheduling order to follow. (Plaintiff Attorney Anna M. Barvir). (Defendant Attorney Alexandra Robert Gordon). (no document attached) (smm) (Entered: 08/03/2017)
08/04/2017	<u>38</u>	SCHEDULING ORDER: Memorandum of Contentions of Fact and Law due by 5/4/2018. Proposed Pretrial Order due by 5/25/2018. Final Pretrial Conference set for 6/4/2018 10:30 AM before Judge Roger T. Benitez. Signed by Magistrate Judge Jill L. Burkhardt on 8/4/2017.(knb) (Entered: 08/04/2017)
08/07/2017	<u>39</u>	MOTION to Stay <i>Proceedings Pending Appeal</i> by Xavier Becerra. (Attachments: # <u>1</u> Memo of Points and Authorities in Support of Motion to Stay Proceedings Pending Appeal, # <u>2</u> Proposed Order, # <u>3</u> Proof of Service)(Gordon, Alexandra) (knb). (Entered: 08/07/2017)

CERTIFICATE OF SERVICE

Case Name: **Duncan, Virginia et al v.** No. **17-56081**
Xavier Becerra

I hereby certify that on October 12, 2017, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

APPELLANT'S EXCERPTS OF RECORD, VOLUME XI, ER 2379-2492

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 12, 2017, at San Francisco, California.

N. Newlin
Declarant

s/ N. Newlin
Signature