EXHIBIT 2

professor DONOHUE 1-60

1   UNITED STATES DISTRICT COURT

2   CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

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5   MICHELLE FLANAGAN, SAMUEL
     GOLDEN, DOMINIC NARDONE, JACOB
     PERKIO, and THE CALIFORNIA
6   RIFLE & PISTOL ASSOCIATION,

7   Plaintiffs,   No.
                                                  2:16-cv-06164-JAK-
8   vs.   AS

9

10   CALIFORNIA ATTORNEY GENERAL
     XAVIER BECERRA, in her
11   official capacity as Attorney
     General of the state of
12   California, SHERIFF JAMES
     McDONNELL, in his official
13   capacity as Sheriff of Los
     Angeles County, California,
14   and DOES 1-10,

15   Defendants.
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18   DEPOSITION OF JOHN J. DONOHUE

19   Volume II

20   August 8, 2017

21   9:30 a.m.

22

23   559 Nathan Abbott Way

24   Stanford, California

25   Joan Theresa Cesano, CSR No. 2590

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1   APPEARANCES OF COUNSEL

2

3   For Plaintiffs:

4   MICHEL & ASSOCIATES
              SEAN A. BRADY, ESQ.
5   (via video-teleconference)
              180 East Ocean Boulevard, Ste. 200
6   Long Beach, California 90802
              652.216.4444
7   sbrady@michellawyers.com

8

9   For Defendants:

10   JONATHAN M. EISENBERG, Deputy Attorney
              General
11   STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE
              OFFICE OF THE ATTORNEY GENERAL
12   (via video-teleconference)
              300 South Spring Street, Ste. 1702
13   Los Angeles, California 90013
              213.897.6505
14   jonathan.eisenberg@doj.ca.gov
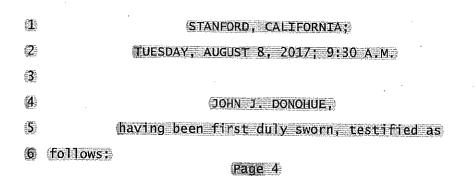
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1   STANFORD, CALIFORNIA;

2   TUESDAY, AUGUST 8, 2017; 9:30 A.M.

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4   JOHN J. DONOHUE,

5   having been first duly sworn, testified as

6   follows:

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          7
          8                    EXAMINATION
09:32AM   9
09:35AM  10          BY MR. BRADY:
09:35AM  11     Q    Can you please state your name for the record?
09:35AM  12     A    John Donohue.
09:35AM  13     Q    Hello, Professor Donohue, we met before when I
09:35AM  14  previously deposed you in this matter on July 12th of this
09:35AM  15  year; is that correct?
09:35AM  16     A    That's correct.
09:35AM  17     Q    And is it your understanding that we're here
09:35AM  18  today because during that July 12th deposition it became
09:35AM  19  known that there was an updated version of an exhibit to
09:35AM  20  your report, specifically Exhibit B, that plaintiff's
09:35AM  21  counsel had not seen before that day?
09:35AM  22     A    Yeah, I wasn't totally sure exactly why the
09:36AM  23  request was, but I assume that that was part of the
09:36AM  24  thinking.
09:36AM  25     Q    But you do have an updated version of your
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09:36AM   1  original Exhibit B to your expert report; is that correct?
09:36AM   2     A    Yeah, I mean, I'm constantly working on that.
09:36AM   3     Q    Sir, so you made revisions to the -- to Exhibit B
09:36AM   4  since your last deposition?
09:36AM   5     A    Yeah, I think -- I've almost continuously been,
09:36AM   6  you know, tweaking here and there.
09:36AM   7          MR. EISENBERG:  Could I interject just to make
09:36AM   8  sure that the record is clear?
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09:52AM 23   A   I think that's correct.

09:52AM 24   MR. EISENBERG: I'll go ahead and answer for

09:52AM 25 that, I mean, this is not a memory contest for Mr. --

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09:52AM 1 Professor Donohue.

09:52AM 2   I don't know if the exact number is Exhibit 10

09:52AM 3 but we agreed that you did, in fact, reintroduce that

09:52AM 4 deposition which I believe you had an assistant print out

09:52AM 5 in the middle of the deposition.

09:52AM 6   THE WITNESS: Yes, correct.

09:52AM 7   BY MR. BRADY:

09:52AM 8   Q   So the version of your study, the original

09:52AM 9 Exhibit B, included both a panel data analysis and a

09:52AM 10 synthetic control analysis of right-to-carry laws; is that

09:52AM 11 correct?

09:52AM 12   A   That's correct.

09:52AM 13   Q   And your updated version does the same?

09:52AM 14   A   That's correct.

09:52AM 15   Q   Okay. So in the study with the panel data

09:53AM 16 analysis, you mentioned estimating multiple models of

09:53AM 17 crime rates, the DAW model, which is your model; correct?

09:53AM 18   A   Correct.

09:53AM 19   Q   And three other models; is that correct?

09:53AM 20   A   That's correct.

09:53AM 21   Q   And you stated that you felt that the DAW model

09:53AM 22 was the best of the four; correct?

09:53AM 23   A   That -- that is the one that I was most

09:53AM 24 comfortable with.

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09:53AM 25   Q   Okay.   And that's your model; correct?

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09:53AM 1   A   That's -- that's correct.

09:53AM 2   Q   Are there other possible models which included

09:53AM 3   other sets of control variables that -- that you could

09:53AM 4   have used other than these four?

09:53AM 5   MR. EISENBERG: Objection; vague and ambiguous as

09:53AM 6   to "possible" and "could have used."

09:53AM 7   But you may answer, Professor Donahue.

09:53AM 8   In fact, unless I say please don't answer, go

09:54AM 9   ahead and answer.

09:54AM 10   A   Yes.   One could pick and choose among the four

09:54AM 11   models that I included to either add or eliminate certain

09:54AM 12   explanatory variables, so every addition of an explanatory

09:54AM 13   variable or subtraction of an explanatory variable would

09:54AM 14   constitute a different model.

09:54AM 15   So in that sense, one could alter these models

09:54AM 16   and get different specifications.

17   BY MR. BRADY:

09:54AM 18   Q   So, there could be other models that included

09:54AM 19   control variables that you did not consider; is that

09:54AM 20   accurate?

09:54AM 21   A   Well, indeed the other models all had some

09:55AM 22   explanatory variables that I did not include.

09:55AM 23   So right in my paper you see that in addition to

09:55AM 24   the model that I felt was the best, the DAW model, the BC

09:55AM 25   model as well as the MM and LM models, all had at least

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09:55AM	1	some explanatory variables that were different from mine
09:55AM	2	and therefore, mine could be amended to include variables
09:55AM	3	that they had.
09:55AM	4	So those would all be different models that one
09:55AM	5	could use.
09:55AM	6	Q But are there models that included control
09:55AM	7	variables that none of the four models used?
09:55AM	8	MR. EISENBERG: Objection; vague and ambiguous.
09:55AM	9	A One -- one could certainly add additional
09:55AM	10	explanatory variables to the ones that are in these four
09:56AM	11	models.
09:56AM	12	BY MR. BRADY:
09:56AM	13	Q And is it possible that these other models, the
09:56AM	14	ones other than the four, could be better at explaining or
09:56AM	15	predicting violent crime rates?
09:56AM	16	MR. EISENBERG: Objection; vague and ambiguous as
09:56AM	17	to "other models."
09:56AM	18	A I do think that it is a conceptual possibility
09:56AM	19	that, you know, other explanatory variables or even
09:56AM	20	permutations of the explanatory variables that I used
09:56AM	21	could be better in the sense of, you know, being a better
09:56AM	22	representation of the factors that explain violent crime.
09:57AM	23	BY MR. BRADY:
09:57AM	24	Q So it's possible that the use of other models
09:57AM	25	could yield estimates of the effects of right-to-carry

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09:57AM 1   laws on violent crime rates that were different enough

09:57AM 2   from DAW and these other models that they would call for

09:57AM 3   different conclusions about the effects of right-to-carry

09:57AM 4   laws?

09:57AM 5   MR. EISENBERG: Objection; calls for speculation

09:57AM 6   on an incomplete hypothetical.

09:57AM 7   A   I do think that the panel data estimates are

09:57AM 8   somewhat more fragile than the, for example, synthetic

09:57AM 9   control estimates. And so by that I mean it is possible

09:57AM 10   that introduction of different explanatory variables could

09:58AM 11   lead to slightly different results than are shown in the

09:58AM 12   four models that I presented in my paper.

09:58AM 13   BY MR. BRADY:

09:58AM 14   Q   Okay. So, but, is it possible that none of the

09:58AM 15   combinations of control variables you used were adequate

09:58AM 16   for estimating the effect of right-to-carry laws?

09:58AM 17   MR. EISENBERG: Objection; vague and ambiguous as

09:58AM 18   to "possible." Again, almost anything's possible.

09:58AM 19   A   Yes. I mean, harkening back to the conclusion of

09:58AM 20   the 2004 National Research Council report, they did say

09:58AM 21   that at the time in 2004 they felt that none of the panel

09:58AM 22   data models run on the existing data were robust enough to

09:59AM 23   draw strong conclusions.

09:59AM 24   And so by updating the data for 14 additional

09:59AM 25   years and having 11 extra states adopting right-to-carry,

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09:59AM 1 I did think I got better panel data estimates than were

09:59AM 2 possible back in 2004, but I still felt that there was

09:59AM 3 some element of accuracy in their concerns about the

09:59AM 4 robustness of panel data models and --

09:59AM 5   BY MR. BRADY:

09:59AM 6   Q   So more years -- more years considered in panel

09:59AM 7 data analysis, does that necessarily make the analysis

10:00AM 8 more robust?

10:00AM 9   MR. EISENBERG: Actually, I want to object; I'm

10:00AM 10 not sure that Professor Donohue was finished with his

10:00AM 11 answer before you asked the question, so I want to see if

10:00AM 12 he has more to say before he answers the next question.

10:00AM 13   THE WITNESS: I'll wait for the next question.

10:00AM 14   MR. EISENBERG: Okay.

10:00AM 15   BY MR. BRADY:

10:00AM 16   Q   So would more years being considered in a panel

10:00AM 17 data analysis -- pardon me, necessarily make the results

10:00AM 18 more robust?

10:00AM 19   Is more years better, in other words?

10:00AM 20   A   Yes, more years is almost always better.

10:00AM 21   But -- and I think if you look at the panel data

10:00AM 22 analysis of my paper and other scholars look at it, they

10:00AM 23 will say, oh, the results have become more stable by

10:01AM 24 virtue of having 14 years of additional data plus 11

10:01AM 25 additional adoptions.

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10:01AM 1   But I think you can still see that there is a

10:01AM 2 difference among some of the models and so, if someone

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10:06AM 7 can collect data for that variable, then you would -- you

10:06AM 8 would be invited or encouraged to include that and see if

10:06AM 9 it made a difference.

10:06AM 10   And so in this case I was -- I was using a lot of

10:06AM 11 different models, including models that in the past had

10:06AM 12 been used to argue that right-to-carry laws actually

10:06AM 13 decreased crime and -- and as well as, models of my own

10:06AM 14 choosing, and models by other researchers who were looking

10:06AM 15 at crime. So I thought I was getting a fair cross section

10:06AM 16 of possible models in doing my analysis.

10:06AM 17   But as you say, there could be other explanatory

10:07AM 18 variables that none of these models included.

10:07AM 19   Q   Can you explain, summarize how you went about

10:07AM 20 choosing what models to include?

10:07AM 21   A   Yes. I think as we mentioned in the prior

10:07AM 22 deposition I had been working in this general area of

10:07AM 23 trying to analyze the impact of right-to-carry laws for

10:07AM 24 quite a number of years and written quite a number of

10:07AM 25 papers on this.

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10:07AM 1   And so over time you spend a lot of time refining

10:07AM 2 your thinking and looking at explanatory variables and

10:07AM 3 getting critique and feedback from other researchers, as

10:07AM 4 well as looking at the vast array of crime papers that are

10:08AM 5 not dealing with right-to-carry at all but are looking at

10:08AM 6 other crime issues.

10:08AM 7   And so looking at that vast literature, you do

10:08AM 8 have a very strong literature to draw on in deciding what

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10:08AM 9   you think is -- is the best model --

10:08AM 10   Q   From --

11   A   Oh, sorry.

10:08AM 12   Q   I'm sorry.

10:08AM 13   A   So just to finish. So that is essentially the

10:08AM 14   process that I -- I went through over the course of years,

10:08AM 15   refining my model and -- and really the first time that I

10:08AM 16   ever came to the conclusion that I think this is what I

10:08AM 17   think is the best model was in this paper.

10:08AM 18   In the past I was always just trying different

10:08AM 19   possibilities without -- without specifically saying, I

10:09AM 20   think this is best model. So this is the first time I

10:09AM 21   took that -- that final step in analyzing the panel data.

10:09AM 22   Q   In that body of literature you mentioned, did you

10:09AM 23   review any studies of crime rates in general, not just on

10:09AM 24   right-to-carry laws, to determine what variables have been

10:09AM 25   found to affect violent crime rates?

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10:09AM 1   A   Yes, I looked at a large number of crime studies

10:09AM 2   to draw that conclusion.

10:09AM 3   Q   Are any of them named in your DAW?

10:09AM 4   MR. EISENBERG: Objection; vague and ambiguous as

10:09AM 5   to "named in your DAW."

10:10AM 6   BY MR. BRADY:

10:10AM 7   Q   Are any of those studies that you mentioned that

10:10AM 8   there are many of referred to, cited, mentioned in your

10:10AM 9   DAW?

10:10AM 10   MR. EISENBERG: Again vague and ambiguous as to

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10:18AM 19   MR. EISENBERG: The question is positing an

10:18AM 20 impossible scenario by which he would know in advance the

10:18AM 21 results that he was trying to generate.

   22   (Interruption to proceedings)

10:19AM 23   THE WITNESS: Can we go off the record for

10:19AM 24 second?

10:19AM 25   MR. BRADY: Sure.

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10:19AM 1   THE WITNESS: I just had someone show up with a

10:19AM 2 bunch of documents, but there were a few that didn't come

10:19AM 3 through.

10:19AM 4   MR. BRADY: Sure.

   5   (Off the record)

10:22AM 6   (Brief recess)

10:35AM 7   BY MR. BRADY: All right, back on the record.

10:35AM 8   Q So when we left off I had a question pending that

10:35AM 9 was: Would it be correct to say that you did not control

10:35AM 10 for a single variable that you knew to have a significant

10:35AM 11 impact on violent crime rates and that is correlated with

10:35AM 12 right-to-carry laws?

10:35AM 13   MR. EISENBERG: And I renew my objections.

10:35AM 14   A Umm -- no, that is not true.

10:36AM 15   BY MR. BRADY:

10:36AM 16   Q So did you control for a variable that had a

10:36AM 17 significant impact on violent crime rates and that is

10:36AM 18 correlated with right-to-carry laws?

10:36AM 19   A Yes.

10:36AM 20   Q Where in your study can I find the correlation of

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10:36AM 21   those variables with right-to-carry laws?

10:36AM 22   A   Well, you can find them in, in a number of

10:36AM 23   different ways.

10:36AM 24   So, for example, if you just run a panel data

10:36AM 25   model with state and year fixed effects, it will always

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10:36AM 1   show a very large positive coefficient on the

10:36AM 2   right-to-carry variable.

10:36AM 3   And that's because in the wake of adoption of

10:36AM 4   right-to-carry laws everyone for at least -- at least

10:37AM 5   since the National Research Council report, which came out

10:37AM 6   in 2004, has acknowledged that the states that adopted

10:37AM 7   right-to-carry laws did worse in terms of violent crime,

10:37AM 8   and by that I mean murder, aggravated assault, rape and

10:37AM 9   robbery, relative to the states that did not adopt

10:37AM 10   right-to-carry.

10:37AM 11   So any time you run just a simple model

10:37AM 12   controlling for right-to-carry laws and state and year

10:37AM 13   fixed effects, you would always show that crime is worse

10:37AM 14   after adoption of right-to-carry laws.

10:37AM 15   So anything that I include in my models that

10:37AM 16   changes that result is showing that you're -- you're

10:37AM 17   adding an explanatory variable that is correlated with the

10:38AM 18   right-to-carry variable.

10:38AM 19   And so -- any -- any model that we look at here

10:38AM 20   that doesn't show that right-to-carry law makes crime look

10:38AM 21   worse, is a model that is including some explanatory

10:38AM 22   variables that are both correlated with right-to-carry

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10:38AM 23 laws and are influencing our estimate of the impact of

10:38AM 24 right-to-carry laws.

10:38AM 25   Q   So where can I see that correlation in your

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10:38AM 1 study? An example?

10:38AM 2   A   Okay. So, for example -- let's look -- okay.

10:39AM 3 All right. So you can see this in -- in a number of

10:39AM 4 places.

10:39AM 5   So, for example, Table 6 which is the Lott and

10:39AM 6 Mustard explanatory variable set in Panel A, and you see

10:39AM 7 that essentially it's showing a near zero effect in the

10:39AM 8 dummy variable model on violent crime.

10:40AM 9   Q   Okay. So you're saying that's an example of a

10:40AM 10 control variable that correlates with right-to-carry laws?

10:40AM 11   A   Well, what I'm saying is, if you compare Panel A

10:40AM 12 and Panel B, you see that Panel B shows a 10% increase in

10:40AM 13 crime associated with adoption of right-to-carry, and

10:40AM 14 Panel A shows a, you know, close to zero and very

10:40AM 15 statistically insignificant estimate.

10:40AM 16   And so that shows you that some of the variables

10:40AM 17 that are included in those two different models are

10:40AM 18 influencing the estimate of the right-to-carry variable.

10:41AM 19   Q   So those would be classified as correlations?

10:41AM 20   A   Yeah, that -- essentially if you add a variable

10:41AM 21 that is uncorrelated with right-to-carry laws, it will not

10:41AM 22 affect the estimate of right-to-carry laws. So that these

10:41AM 23 variables that change the estimate on the dummy variable

10:41AM 24 model had to be correlated with right-to-carry laws.

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10:41AM 25   Q   And -- did you -- did you do the computations of

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10:41AM 1   those correlations?

10:41AM 2   A   You know, I was only interested in what the --

10:41AM 3   what the estimate for the dummy -- excuse me -- what the

10:41AM 4   estimate for the impact of right-to-carry laws is, and I

10:41AM 5   just know because of the way regression works, that

10:41AM 6   including or excluding any variable that alters that

10:42AM 7   estimate is -- is identifying a variable that is

10:42AM 8   correlated with right-to-carry laws.

10:42AM 9   Q   So is that a "yes" or "no"? Did you compute

10:42AM 10   those correlations?

10:42AM 11   A   I did not compute those correlations but I -- I

10:42AM 12   can tell that those -- those variables are correlated.

10:42AM 13   Q   Okay.

10:42AM 14   This is a hypothetical question.

10:42AM 15   A   Yes.

10:42AM 16   Q   Would assessing the impact of a type of law, like

10:42AM 17   of the right-to-carry law, while controlling for zero

10:42AM 18   variables that had a significant impact on violent crime

10:42AM 19   rates and are correlated with right-to-carry laws, would

10:42AM 20   doing that be regarded as scientifically acceptable in

10:43AM 21   nonexperimental studies of crime in your academic

10:43AM 22   community?

10:43AM 23   MR. EISENBERG: Vague and ambiguous as to

10:43AM 24   academically acceptable.

10:43AM 25   MR. BRADY: It was "scientifically acceptable."

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11:05AM 18   model.

11:05AM 19   A   Yeah. The spline model results are probably

11:06AM 20   strongest in Table 8 for murder, not for violent crime.

11:06AM 21   Q   Not for violent crime? What table would you say

11:06AM 22   is the -- tells the most statistically significant impact

11:06AM 23   on right-to-carry laws for violent crime in general?

11:06AM 24   A   For the spline model?

11:06AM 25   Q   Yes.

                                                                274

11:06AM   1   A   So Table 7 would probably be that -- that model.

11:06AM   2   Q   So going back to Table 8.

11:06AM   3   Table 8 reflects results that -- from data that

11:07AM   4   was collected from between 2002 and 2014 only; correct?

11:07AM   5   A   That's correct.

11:07AM   6   Q   So it wasn't like the other tables that start in

11:07AM   7   late '70s, through 2014; correct?

11:07AM   8   A   That's correct.

11:07AM   9   Q   Is there a reason you chose that period for Table

11:07AM 10   8?

11:07AM 11   A   Yes. Essentially one of the great concerns in

11:07AM 12   this literature going back many years has been the fact

11:07AM 13   that it's hard to have an explanatory variable that

11:07AM 14   captures the criminogenic influence of crack cocaine. And

11:08AM 15   crack was a huge factor in the late 1980s and early 1990s

11:08AM 16   in driving up crime. And there was a differential effect

11:08AM 17   that led to worse crime increases in states that had a

11:08AM 18   bigger crack problem and many of those states like New

11:08AM 19   York, Illinois, District of Columbia, California, were

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11:08AM 20   states that did not have right-to-carry laws. And so by

11:08AM 21   not controlling for crack, you were making right-to-carry

11:08AM 22   laws look better than they were, and so that was a

11:08AM 23   concern.

11:08AM 24   By looking at crime in the period 2000 to 2014,

11:09AM 25   we were in a more stable crime period when the impact of

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11:09AM 1   crack had largely subsided. And so at least for these 11

11:09AM 2   states you're not getting the -- the sort of harmful

11:09AM 3   contribution of the crack problem to our attempt to

11:09AM 4   estimate the impact of right-to-carry laws.

11:09AM 5   Q   So would it be fair to say you excluded the late

11:09AM 6   '90s years due to your concerns about the crack issue?

11:09AM 7   A   Yes.

11:09AM 8   Q   Did you use this same 2000 to 2014 period in your

11:09AM 9   previous study from 2014?

11:09AM 10   A   Umm -- I probably would not have used the exact

11:10AM 11   same period because I wouldn't have had, you know, the

11:10AM 12   data going as far as I had in this paper at an earlier

11:10AM 13   time. But I think I did do something similar of trying to

11:10AM 14   capture the post-crack period.

11:10AM 15   Q   So you're saying you might not have 2014 or the

11:10AM 16   higher years, but you would have 2000?

11:10AM 17   A   Yes. Yes, I presumably would have had 2000.

11:10AM 18   Q   What about 1999 data?

11:10AM 19   A   Yeah, I could -- I would certainly have had that

11:10AM 20   data available.

11:10AM 21   Q   Did you use 1999 data in your 2014 report?

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11:10AM 22   A   I -- I have to look back. I think I may have,

11:10AM 23   but I would have to look back to be sure.

11:10AM 24   Q   If you did, what would be a reason to exclude it

11:11AM 25   from this report? This study?

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11:11AM 1   A   Yes. Essentially, I -- I looked at the pattern

11:11AM 2   of crime, you know, fairly carefully and it -- it looked

11:11AM 3   like crime really leveled out starting in about 2000. So

11:11AM 4   crime was still dropping in 1999.

11:11AM 5   And so I -- I decided that since I had 14 years

11:11AM 6   of data here, I would, you know, sort of rely on the

11:11AM 7   period that was the -- the most flat in terms of crime

11:11AM 8   that I could find over this more recent period.

11:11AM 9   Q   Can you please hand the court reporter the FBI

11:12AM 10   UCR report I gave you?

11:12AM 11   A   Sure.

11:12AM 12   MR. BRADY: We can mark that as Exhibit -- I

11:12AM 13   think we're at 14 on the record.

11:12AM 14   Let me make sure that's the case. Is this the

11:12AM 15   first exhibit I'm going to mark?

11:12AM 16   THE REPORTER: Yes, it is.

11:12AM 17   MR. BRADY: Then I think it's 14.

11:12AM 18   THE WITNESS: Okay.

11:12AM 19   MR. EISENBERG: Is this the one called FBI Table

11:12AM 20   1?

11:12AM 21   MR. BRADY: Yes.

11:12AM 22   MR. EISENBERG: Okay.

11:12AM 23   (Exhibit 14 marked)
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11:12AM 24   BY MR. BRADY:

11:12AM 25   Q   Have you seen this before?

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11:12AM 1   A   I mean, I haven't seen this particular handout,

11:13AM 2   but I certainly have looked at FBI crime data many times.

11:13AM 3   Q   So did you say on what you based your assertion

11:13AM 4   that crime had leveled out by 2000?

11:13AM 5   A   Yes. That --

11:13AM 6   Q   And what was that?

11:13AM 7   A   That if you -- if you look at the -- if you look

11:13AM 8   at the period of 1996 to 2000, crime was still dropping

11:13AM 9   pretty sharply over that entire period.

11:13AM 10   But after 2000 it -- it levels out pretty --

11:13AM 11   pretty flat. There's no further increase -- I mean

11:13AM 12   decrease in crime, you know, over the next six years. Or

11:14AM 13   even further. Over the next, like eight years it's pretty

11:14AM 14   flat.

11:14AM 15   So essentially one easy way to think about it is

11:14AM 16   the Clinton years were years of very sharp decline and the

11:14AM 17   Bush years were years where crime was essentially flat,

11:14AM 18   for murder.

11:14AM 19   Q   Mm-hmm. Would the .2 difference between 1999 and

11:14AM 20   2000, for murders, would that be a significant difference?

11:14AM 21   That's statistically speaking.

11:14AM 22   A   You know, one would have to do a statistical

11:14AM 23   test, but you're talking about a fairly large amount of

11:15AM 24   data here, so it probably would be statistically

11:15AM 25   significant.

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11:15AM	1	Q	2003 was included in the data set that you used
11:15AM	2		for Table 8, correct?
11:15AM	3	A	Yes.
11:15AM	4	Q	And for murders it has 5.7; correct?
11:15AM	5	A	That's right.
11:15AM	6	Q	1999 has 5.7; correct?
11:15AM	7	A	That's right.
11:15AM	8	Q	But you omitted 1999 from this data set; correct?
11:15AM	9	A	I did.
11:15AM	10	Q	Do you have a reason why you omitted 1999?
11:15AM	11	A	Yes. I mean, as I said, I was trying to get past
11:15AM	12		both the uptick in crime from the emergence of the crack
11:16AM	13		problem and then the downtick in crime that followed the
11:16AM	14		elimination of the crack problem.
11:16AM	15		And -- and you can see that the -- the decline
11:16AM	16		ended in 2000.
11:16AM	17	Q	So what literature did you rely on in including
11:16AM	18		the year 1999 in the so-called crack era?
11:16AM	19	A	You know, again, that was just a judgment based
11:16AM	20		on -- the observation that crime continued to fall
11:16AM	21		steadily, through 2000 and then leveled off.
11:17AM	22		And so I used that as my determination for, at
11:17AM	23		this point, I'm feeling confident that the aftermath of
11:17AM	24		crack has -- has played itself out.
11:17AM	25	Q	And were you -- you weren't concerned that some

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11:17AM	1		of the years following 2000 had higher murder rates than
11:17AM	2		1999?
11:17AM	3	A	Umm --
11:17AM	4		MR. EISENBERG: Objection; misstates the table.
11:17AM	5		BY MR. BRADY:
11:17AM	6	Q	Look at the year 2006.
11:17AM	7	A	Yes.
11:17AM	8	Q	Was 2006 included in your data set for Table 8?
11:18AM	9	A	Yes, yes.
11:18AM	10	Q	2006 says 5.8 for the murder category; is that
11:18AM	11		correct?
11:18AM	12	A	That's correct.
11:18AM	13	Q	1999 says 5.7; correct?
11:18AM	14	A	That's correct.
11:18AM	15	Q	So 2006 has a higher murder rate than 1999;
11:18AM	16		correct?
11:18AM	17	A	It did.
11:18AM	18	Q	Okay. So what was the concern about 1999?
11:18AM	19	A	Umm -- again, it's a little bit of a judgment
11:18AM	20		call as to when do you think the decline in crime of the
11:18AM	21		90s that was attributable to the elimination of the crack
11:18AM	22		problem had played itself out.
11:18AM	23		And you could argue 1999 is when it had played
11:18AM	24		itself out, but you can see that there was still a, you
11:19AM	25		know, fairly considerable drop from 1999 to 2000 and since

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11:19AM 1   I had 14 years of data after 2000, I thought sort of a
11:19AM 2   cleaner look on that would be to start at 2000.
11:19AM 3   Q   And what literature did you rely on in including
11:19AM 4   1999 in the so-called crack era?
11:19AM 5   A   Umm -- you know, I essentially included that in
11:19AM 6   the aftermath of the crack era.
11:19AM 7   So there are really two phases of the crack era,
11:19AM 8   the period when crime was rising because of crack and then
11:19AM 9   the period after crack had subsided. And so the first one
11:20AM 10   stimulated crime and the second one tended to dampen crime
11:20AM 11   and -- and there's a very big literature that discusses
11:20AM 12   that phenomenon.
11:20AM 13   But the final judgment as to whether you would
11:20AM 14   say that the impact of crack had fully dissipated in 1999
11:20AM 15   or 2000 was my judgment.
11:20AM 16   Q   Based on?
11:20AM 17   A   Well, based on the fact we do see crime
11:20AM 18   continuing to fall at a significant rate through 2000 and
11:20AM 19   then the -- the drop stops.
11:20AM 20   Q   Would omitting a year in a data set of
11:21AM 21   15 years -- strike that.
11:21AM 22   Could the omission of data from one year in a
11:21AM 23   data set of 15 years alter results in the analysis of that
11:21AM 24   period?
11:21AM 25   A   It -- it could.

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11:21AM 1   Q   Did you omit the data from 1999 because it wasn't

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11:21AM 2 favorable to your view that right-to-carry laws increase

11:21AM 3 violent crime?

11:21AM 4   A   No. No, and if you look at the Zimmerman paper

11:22AM 5 which does use a panel data set starting in 1999, you

11:22AM 6 know, they found -- and I'm quoting here: "The

11:22AM 7 shall-issue coefficient takes a positive sign in all

11:22AM 8 regressions save for the rape model and is statistically

11:22AM 9 significant in murder, robbery, assault, burglary, and

         10 larceny."

         11   (Reporter clarification)

11:22AM 12   So it's possible that my results would be

11:22AM 13 stronger if I had included 1999, but I was making a

11:22AM 14 judgment of what the best way to do it was, and I didn't

11:22AM 15 run it both ways to see which -- which was, you know,

11:23AM 16 contributing to a stronger or weaker impact.

11:23AM 17   Q   You reference the Zimmerman study?

11:23AM 18   A   Yes.

11:23AM 19   Q   And I believe you provided a quote.

11:23AM 20   Do you have that quote in front of you?

11:23AM 21   A   I do.

11:23AM 22   Q   Is there a sentence that is after that quote

11:23AM 23 starting with the word "however"?

11:23AM 24   MR. EISENBERG: Are you talking about Exhibit 10?

        25   BY MR. BRADY:

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11:23AM 1   Q   From where, Professor, are you getting your

11:23AM 2 quote? Is it from your study?

11:23AM 3   A   It was from the expert report dated June 1.

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11:53AM   5   determine -- of course, you stand by your 10-year period,

11:53AM   6   I'm not trying to get you to say you were wrong.

11:53AM   7   What I'm asking is, could another researcher

11:53AM   8   decide in doing their analysis, even though you may think

11:53AM   9   that analysis would be wrong, could they decide that five-

11:53AM 10   or eight- or 15-year periods would make more sense and get

11:53AM 11   better results?

11:53AM 12   A   You know, certainly you can -- you can make an

11:53AM 13   argument for different time periods, you just have to be

11:53AM 14   aware of the trade-off.

11:53AM 15   If it's a longer period you get the benefit of,

11:53AM 16   you know, more data in the post-treatment period, so you

11:53AM 17   can see how trends play out, but you sacrifice in terms of

11:53AM 18   the number of controls. And if it's a shorter period you

11:53AM 19   get the benefit of more potential other controls, but at

11:53AM 20   the cost of not fully capturing all of the effects, if

11:54AM 21   they sort of mimic the growth and right-to-carry permits

11:54AM 22   which we know takes, you know, a number of years to grow

11:54AM 23   to a significant level.

11:54AM 24   Q   Sure. All I'm really asking is, it's the

11:54AM 25   researcher's decision what time period to use; correct?

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11:54AM   1   A   That's right. It's --

11:54AM   2   Q   You chose ten years because you thought that that

11:54AM   3   provided the optimum data set for that control; right?

11:54AM   4   A   That's correct.

11:54AM   5   Q   But a different researcher could determine that a

11:54AM   6   different set of years would be superior; correct?

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11:54AM 7   A   They -- they would have to make an argument for
11:54AM 8   that other period, but they could certainly look at the
11:54AM 9   results for a different period.
11:55AM 10   Q   And if it were different sets of comparison
11:55AM 11   states, some that were, you know, states that only had a
11:55AM 12   right-to-carry law for five years in place, is it possible
11:55AM 13   that you could have had different conclusions?
11:55AM 14   A   You know, that's a good question.
11:55AM 15   Well, let me just look a bit -- I mean,
11:55AM 16   obviously, if you're looking at less than ten years, you
11:55AM 17   couldn't draw any conclusion about the ten-year effects.
11:55AM 18   And you know, if we look at the effects you see that
11:56AM 19   there's a very substantial increase from, you know, five
11:56AM 20   to ten years in the estimated impact.
11:56AM 21   So it tells me that if you're looking at what's
11:56AM 22   been five years you're -- you're going to be missing a big
11:56AM 23   part of the increase in violent crime.
11:56AM 24   Q   So then it would have different results by
11:56AM 25   including those states, or it could have different results

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11:56AM 1   by including those states?
        2   A   Umm, well --
11:56AM 3   Q   Whether for good or for bad --
        4   A   Yeah.
11:56AM 5   Q   -- or indifferent?
11:56AM 6   A   Yeah, I mean, it could generate different results
11:56AM 7   for, you know, whatever period you're looking at. So if
11:56AM 8   you were looking at five years it could show different
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11:59AM 11   professor at Harvard who was the initiatory of the

11:59AM 12   synthetic controls.

11:59AM 13   Q   In reaching your conclusion, did you take into

11:59AM 14   account accidental discharges by permit holders?

11:59AM 15   A   My analysis purely focused on crimes reported by

11:59AM 16   police to the FBI in Uniform Crime Reports.

11:59AM 17   And so if someone was accidentally discharged --

11:59AM 18   discharging the gun and not committing, you know, an

12:00PM 19   aggravated assault, or rape, robbery, or murder, then it

12:00PM 20   would not be in included in my analysis.

12:00PM 21   Q   Okay. Did you control for gun laws in states

12:00PM 22   that were comparison states to the control state -- or the

12:00PM 23   treatment state?

12:00PM 24   MR. EISENBERG: Objection; asked and answered.

12:00PM 25   A   We controlled for, you know, did the state have a

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12:00PM 1   right-to-carry law, did it not have a right-to-carry law.

12:00PM 2   But then the synthetic control picked out the composite

12:00PM 3   that would constitute the counterfactual.

         4   BY MR. BRADY:

12:01PM 5   Q   So if a state, say, had a background check system

12:01PM 6   to purchase a firearm, would you control for that in

12:01PM 7   determining the impacts on crime rates?

12:01PM 8   A   You -- you could include that in your analysis.

12:01PM 9   I did not include that in this.

12:01PM 10   Q   Have you done any work on background checks and

12:01PM 11   whether they are effective?

12:01PM 12   A   I -- I have looked at that and they seem to be

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12:01PM 13 effective in certain settings, but not in other settings.

12:01PM 14   Q   Do you know how many of the states you analyzed

12:01PM 15 in your study have background checks for the purchase of

12:01PM 16 firearms?

12:02PM 17   A   You know, a number of states, particularly in the

12:02PM 18 wake of the 2012 Newtown shootings, adopted background

12:02PM 19 checks.   But for -- for much of this period, most states

12:02PM 20 did not have any background checks, any state background

12:02PM 21 checks.   There's always a federal background check system

12:02PM 22 that came into place in the mid 1990s.

12:02PM 23   Q   There's always a federal background check to

12:02PM 24 obtain a firearm?

12:02PM 25   A   Umm -- there was always a uniform federal rule

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12:02PM 1 that applied to all states after the Brady Bill went into

12:02PM 2 effect, although it does not -- it does not govern all

12:02PM 3 transfers of firearms.

12:03PM 4   Q   So there are states that have more strict

12:03PM 5 background checks for firearm purchases; correct?

12:03PM 6   A   Yes, there are.

12:03PM 7   Q   And those background check laws could impact the

12:03PM 8 violent crime rates; correct?

12:03PM 9   A   That's correct.

12:03PM 10   Q   But you did not control for those background

12:03PM 11 check laws, did you?

12:03PM 12   A   I did not do that yet, although I certainly could

12:03PM 13 do that and I don't think it would change my analysis, but

12:03PM 14 I could -- I could assure myself of that.

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12:03PM 15   Q   Okay. In analyzing the effects of the state's

12:03PM 16   adoption of a right-to-carry law, did you account for

12:03PM 17   whether the state allowed open carry at the time?

12:03PM 18   A   I didn't have a specific control for that.

12:03PM 19   Q   Do you know how many states have legal open

12:04PM 20   carry?

12:04PM 21   MR. EISENBERG: Objection; beyond the scope of

12:04PM 22   expert testimony.

12:04PM 23   A   It's actually quite a challenge to know the

12:04PM 24   answer to that question, and it's even challenging to know

12:04PM 25   the answer to the question of, you know, when does a state

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12:04PM   1   become a right-to-carry state.

12:04PM   2   But a number of states would now be considered

12:04PM   3   open carry states of one kind or another. So, for

12:04PM   4   example, Texas now allows you to carry openly if you have

12:04PM   5   a right-to-carry permit. And, for example, Oklahoma had a

12:05PM   6   big contest as to whether it was allowed -- allowed its

12:05PM   7   citizens to carry openly or not, and I believe it was

12:05PM   8   2015, the Attorney General of Oklahoma issued a nonbinding

12:05PM   9   statement that it would be legal to openly carry.

12:05PM 10   So it gives you a sense of the -- the uncertainty

12:05PM 11   and flux and the issue of what is legal in terms of open

12:05PM 12   carry. And that's in part one reason why we haven't seen

12:05PM 13   as many studies of the impact of open carry as we've had

12:05PM 14   for right-to-carry, which has been in place in a little

12:05PM 15   more defined way and over a longer period of time.

12:05PM 16   Q   Okay. If -- if you were allowed to openly carry

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12:06PM 17   a firearm, could that not have an impact on violent crime

12:06PM 18   rates according to your view?

12:06PM 19   MR. EISENBERG: Objection; vague and ambiguous as

12:06PM 20   to a person.

12:06PM 21   A   I suspect that the states that allow open carry

12:06PM 22   are more likely to be the states that allow concealed

12:06PM 23   carry, and so you could imagine that -- you know, some of

12:07PM 24   what I'm attributing as a stimulating effect on crime

12:07PM 25   owing to right-to-carry states is capturing some crime

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12:07PM 1   increasing impact that really should be attributed to open

12:07PM 2   carry.

12:07PM 3   But I -- I haven't done that analysis again in

12:07PM 4   part because the open carry regime comes sort of later in

12:07PM 5   this period and we don't have as much data.   But since --

12:07PM 6   since there is that correlation I think between

12:07PM 7   right-to-carry states and open carry, I suspect that they

12:07PM 8   both push in the same direction.

12:07PM 9   BY MR. BRADY:

12:07PM 10   Q   What if the open carry law predated the

12:07PM 11   right-to-carry concealed law?

12:07PM 12   A   Well, in that case if -- if right-to-carry didn't

12:08PM 13   make things worse, then you should estimate no impact

12:08PM 14   from -- from the law, because what we would have been

12:08PM 15   matching is the crime pattern prior to adoption of the

12:08PM 16   right-to-carry law, getting a good fit for that, and then

12:08PM 17   projecting that forward.

12:08PM 18   And so if the synthetic controls is giving us a

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12:08PM 19   good pre-treatment fit, then we're still getting an
12:08PM 20   unbiased estimate of the impact of right-to-carry laws
12:08PM 21   after the right-to-carry law adopted.
12:08PM 22   Q   Let's be clear, you didn't control for open carry
12:08PM 23   laws in the synthetic control analysis, correct?
12:08PM 24   MR. EISENBERG: Objection; asked and answered.
12:08PM 25   A   I did not.

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1   BY MR. BRADY:
12:09PM 2   Q   I believe, and I don't want to put words in your
12:09PM 3   mouth -- correct me if I'm wrong, but it's your view that
12:09PM 4   right-to-carry laws increase both crimes involving guns
12:09PM 5   and crimes not committed with guns; is that correct?
12:09PM 6   A   I think -- I think that that's likely.
12:09PM 7   Q   Would you expect the gun laws -- strike that.
12:09PM 8   Would you expect there to be a more -- more of an
12:09PM 9   effect on crimes committed with guns than crimes not
12:09PM 10   committed with guns as a result of a right-to-carry law?
12:09PM 11   A   This is a complicated question, actually.
12:10PM 12   One thing that we know is that when you pass a
12:10PM 13   right-to-carry law, lots and lots of guns get stolen.   So
12:10PM 14   right away, anything that influences auto theft and
12:10PM 15   breaking into cars and stealing them is going to be
12:10PM 16   elevated in the aftermath of the adoption of a
12:10PM 17   right-to-carry law.
12:10PM 18   So those are oftentimes crimes that are not
12:10PM 19   committed with a gun, but they would tend to go up in the
12:10PM 20   aftermath of a right-to-carry law.

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12:17PM 1   considered?

12:17PM 2   A   Yes. I do try to read them all, even the ones

12:17PM 3   that aren't very good I try to read.

12:17PM 4   And so I don't -- I don't know the precise number

12:17PM 5   but I probably, you know, I'm in the top five of Americans

12:17PM 6   who have read right-to-carry studies, I suspect. Maybe

12:17PM 7   even in the world.

12:17PM 8   Q   Okay. Fair enough.

12:17PM 9   So you agree that there are studies out there

12:17PM 10   that do not support your conclusions; correct?

12:17PM 11   A   Yes, they're --

12:18PM 12   Q   I'm not asking you to make a judgment about

12:18PM 13   whether they're good or bad, but there are studies out

12:18PM 14   there that disagree with your conclusions and your

12:18PM 15   studies; is that correct?

12:18PM 16   A   Yes.

12:18PM 17   Q   Among the studies that you have considered that

12:18PM 18   you can recall, do most of them conclude that

12:18PM 19   right-to-carry laws increase violent crime rates?

12:18PM 20   A   You know, this is what I do agree with Gary Kleck

12:18PM 21   because he has written and stated that you shouldn't just

12:18PM 22   count the number of studies without making sort of

12:18PM 23   independent assessments of their value.

12:18PM 24   And so, for example, John Lott will frequently

12:18PM 25   say here's the number of studies that support his

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12:18PM 1 position, and that's more than the number that support

2 estimates that crime goes up.

12:19PM 3 But again, if you look at the studies, then you

12:19PM 4 would see -- well, first of all, most of the studies that

12:19PM 5 John Lott is referring to were done using data ending

12:19PM 6 before 2000, so we have a lot more and better data now.

12:19PM 7 And many of them have other serious problems. And none of

12:19PM 8 them have looked at the impact using synthetic controls.

12:19PM 9 Q Okay. Setting aside your critiques of the other

12:19PM 10 studies.

12:19PM 11 Obviously, you think yours is superior otherwise

12:19PM 12 you wouldn't have done it, but would it be fair to say

12:19PM 13 that most other studies in this field either conclude that

12:19PM 14 right-to-carry laws have no effect on violent crime rates

12:20PM 15 or that they reduce violent crime?

12:20PM 16 A You know, I think that that's not true for

12:20PM 17 studies done since the National Research Council report of

12:20PM 18 2004.

12:20PM 19 I think it is true for studies done before the

12:20PM 20 National Research Council report of 2004.

12:20PM 21 Q So it's your view that post 2004 the majority of

12:20PM 22 studies share your view that right-to-carry laws, in fact,

12:20PM 23 increase violent crime rates?

12:20PM 24 MR. EISENBERG: Objection; calls for speculation.

12:20PM 25 A It's -- it's certainly a lot closer after 2004

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12:21PM 1   than it was before 2004.

12:21PM 2   BY MR. BRADY:

12:21PM 3   Q   Can you name the study that you think, other than

12:21PM 4   your own, that shows -- that concludes that right-to-carry

12:21PM 5   laws, in fact, increase violent crime rates?

12:21PM 6   A   Again, there are a number of studies that show

12:21PM 7   regression analyses that predict or estimate that the

12:21PM 8   impact on violent crime is positive, in other words,

12:21PM 9   increasing, when right-to-carry laws are adopted.

12:21PM 10   Sometimes the authors have qualified the results

12:21PM 11   and said, you know, while our best model shows that

12:22PM 12   right-to-carry laws increase crime they -- they did not

12:22PM 13   come to any firm conclusion about what the impact really

12:22PM 14   was.

12:22PM 15   Q   Has there been any report that has not

12:22PM 16   qualified -- has not so qualified its conclusion as you

12:22PM 17   just explained, other than yours?

12:22PM 18   A   Well, are you asking are there any reports

12:22PM 19   showing increases in violent crime?

12:22PM 20   Q   So, just to -- let me set the record straight

12:22PM 21   here so we're clear.

12:22PM 22   You indicated that there are reports that have

12:22PM 23   shown regressions with a positive for right-to-carry laws

12:22PM 24   on violent crime --

12:22PM 25   A   Yes.

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12:22PM 1   Q   -- but that the authors qualify their findings,

12:23PM 2   saying although there are positive showings, we're not

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12:23PM 3 going to make any firm conclusions on whether, in fact,

12:23PM 4 right-to-carry laws increase violent crime rates; is that

12:23PM 5 correct?

12:23PM 6   Is that accurate about what you just said?

12:23PM 7   A   Umm -- let me see if I can mimic what you just

12:23PM 8 said.

12:23PM 9   There are a number of studies that have found

12:23PM 10 right-to-carry laws increase violent crime. I can think

12:23PM 11 of two of them that then qualify the results. So the

12:23PM 12 Durlauf, Navarro, and Rivers study said our best model

12:24PM 13 using our Bayesian econometric approach shows that violent

12:24PM 14 crime increases by roughly 2% every year that it's in

12:24PM 15 place.

12:24PM 16   And the Zimmerman paper, which we quoted earlier,

12:24PM 17 said our model estimated over two -- 1999 to 2010 shows

12:24PM 18 statistically significant increases in various violent

12:24PM 19 crime categories as, you know, Donohue and others have

12:24PM 20 found. But both of those papers qualified their

12:24PM 21 conclusions.

12:24PM 22   There is another paper that Gary Kleck has -- has

12:24PM 23 held up as like the best of the right-to-carry papers, and

12:24PM 24 I'm not sure that that paper qualified its conclusion or

12:25PM 25 not, but it did find clearly that right-to-carry laws were

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12:25PM 1 associated with large annual increases in aggravated

12:25PM 2 assault.

12:25PM 3   Q   Are you aware of any other study that does not

12:25PM 4 qualify its conclusion that right-to-carry laws increase

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12:25PM 5 violent crime rates like those studies?

12:25PM 6   A   Yeah, I'm not sure that the -- the study that

12:25PM 7 Gary Kleck identified as his preferred study qualified its

12:25PM 8 finding on aggravated assault, I'd have to go back and

12:25PM 9 check on that.

12:25PM 10   But it did clearly find an increase in aggravated

12:25PM 11 assault associated with right-to-carry adoption.

12:25PM 12   Q   Other than that study, are you aware of any that

12:26PM 13 did not qualify its conclusion?

12:26PM 14   A   I mean, I think -- I think people have written in

12:26PM 15 the wake of my study to say that they agree with that.

12:26PM 16 But in terms of a separate and independent analysis, I

12:26PM 17 don't know of any others.

12:26PM 18   Q   Okay. So since we don't know about the one

12:26PM 19 report you alluded to that Mr. -- Professor Kleck says is

12:26PM 20 his favorite, setting that on the side because we don't

12:26PM 21 know, is it fair to say that the only study that concludes

12:26PM 22 without qualification that right-to-carry laws increase

12:26PM 23 violent crime is yours?

12:27PM 24   A   I mean, I'm not sure that my conclusion is any

12:27PM 25 different from the study that Gary Kleck referenced in

315

12:27PM 1 that both of us did our analysis and found right-to-carry

12:27PM 2 laws increase violent crime. I --

12:27PM 3   Q   But, Professor, I said setting that one aside.

       4   A   Okay.

12:27PM 5   Q   Because we're not sure, you know. We can clarify

12:27PM 6 later if you want whether that one, in fact, does that, so

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12:27PM 7   let's assume that one does for the record. We'll just

12:27PM 8   assume it does.

12:27PM 9   Is there any other study besides that one that

12:27PM 10   you're aware of, and besides yours, that concludes without

12:27PM 11   qualification that right-to-carry laws increase violent

12:27PM 12   crime rates?

12:27PM 13   A   You know, mine is the only study that has

12:27PM 14   analyzed this -- this full set of data up through 2014,

12:28PM 15   using both panel data and synthetic controls. And so in

12:28PM 16   that sense my study is unique in the scope and breadth of

12:28PM 17   its analysis. But apart from the -- the Kovandzic study

12:28PM 18   that Gary Kleck referenced and the two other ones that I

12:28PM 19   alluded to, I'm -- I'm not aware of any other studies that

12:28PM 20   similarly find an increase in violent crime.

12:28PM 21   Q   Your study cites no study specifically addressing

12:28PM 22   open carry issues; correct?

12:28PM 23   MR. EISENBERG: Vague and ambiguous as to which

12:29PM 24   study you're referring to.

         25   BY MR. BRADY:

                                                                316

12:29PM 1   Q   So the study, DAW, Exhibit B to the report,

12:29PM 2   Exhibit 10 to this deposition, your June study that we've

12:29PM 3   been talking about this entire time, in there do you cite

12:29PM 4   any studies specifically dealing with open carry

12:29PM 5   statistics?

12:29PM 6   A   Yeah, I was not -- I was not aware of any such

12:29PM 7   studies.

12:29PM 8   Q   So you did not consult any study specifically

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12:29PM 9   addressing open carry in preparing your study; correct?

12:29PM 10   A   Yeah, I didn't have any -- any study available.

12:29PM 11   Q   And your study, I think we already got this, but

12:29PM 12   I don't recall if it's on record, has it been published

12:29PM 13   yet?

12:30PM 14   A   No, it has not been published yet.

12:30PM 15   Q   Has it been submitted for publication?

12:30PM 16   A   It has been.

12:30PM 17   Q   Can you disclose to where it's been submitted?

12:30PM 18   A   Umm -- you know, that's a good question.   I don't

12:30PM 19   know if I'm supposed to say that or not, but I think it's

12:30PM 20   fair --

12:30PM 21   Q   I -- how about this.   I won't force you to get in

12:30PM 22   trouble with your -- the people who are doing that.

12:30PM 23   Can you describe what type -- is it a journal of

12:30PM 24   some sort?

12:30PM 25   A   Yeah, it's a very, very eminent journal.

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12:30PM 1   Q   Is it -- can you just say whether it's an

12:30PM 2   economics journal, law review journal, statistics journal?

12:30PM 3   A   Yeah, economics.

12:30PM 4   Q   Okay.

12:30PM 5   Can you hand the court reporter the article from

12:30PM 6   the L.A. Times and we'll mark that as -- what are we at,

12:30PM 7   16?

         8   THE REPORTER: I thought 14.

12:31PM 9   THE WITNESS: So the next one is 15.

12:31PM 10   MR. BRADY: Okay.   That's right.   I'm sorry,

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12:31PM 11   you're right.

12:31PM 12   MR. EISENBERG: This is the Pat Morrison article?

12:31PM 13   MR. BRADY: Correct.

12:31PM 14   Q   So do you recognize this article, Professor

12:31PM 15   Donohue?

12:31PM 16   A   I do.

     17   THE REPORTER: Could I have just a moment to put

     18   the sticker on, Counsel?

     19   MR. BRADY: Of course.

12:31PM 20   (Exhibit 15 marked)

12:31PM 21   Q   So let's start with -- on the -- I think it is --

12:31PM 22   of the handout it's page 1, 2, 3, 4, 5. Page 5.

12:32PM 23   The question from the interviewer -- well, I

12:32PM 24   guess it starts on page 4.

12:32PM 25   But so he says: "The saying that the NRA

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12:32PM 1   President Wayne LaPierre used after the Sandy Hook murders

12:32PM 2   is that," quote --

12:32PM 3   (Reporter clarification)

12:32PM 4   MR. BRADY: I would rather it be clear, so I

12:32PM 5   apologize. So, I'm sorry.

12:32PM 6   He -- it says: "The saying that the NRA

12:32PM 7   president Wayne LaPierre used after the Sandy Hook murders

12:32PM 8   is that, quote, 'The only thing that stops a bad guy with

12:32PM 9   a gun is a good guy with a gun.'"

12:32PM 10   Then it goes on and it says: "What truth did you

12:32PM 11   find to that saying" -- is the question from the

     12   interviewer.

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12:32PM 13   Your response in part is that: "It's much more

12:33PM 14   common that an unarmed person will stop a mass shooting

12:33PM 15   than an armed citizen will, just because most people are

12:33PM 16   unarmed."

12:33PM 17   Q   How many examples of unarmed people are you aware

12:33PM 18   of who have stopped a mass shooting?

12:33PM 19   A   Umm -- the FBI report that I was referring to

12:33PM 20   cited 21 cases out of 160 mass shooting incidents that

12:33PM 21   they looked at.

12:33PM 22   So 21 out of 160, and there was only one where a

12:33PM 23   permit holder, you know, a private citizen stopped the

12:33PM 24   mass shooting. So about 21 times as often that an unarmed

12:33PM 25   person would stop a mass shooting than a private citizen

                                                                        319

12:33PM 1   would stop a mass shooting.

12:33PM 2   Q   So it was 21 -- 21 individuals, unarmed

12:34PM 3   individuals, stopped a mass shooting and only one armed

12:34PM 4   person did?

12:34PM 5   A   Yeah, only one in the 160 cases that the FBI

12:34PM 6   looked at from I believe it was 2000 to 2013.

12:34PM 7   Q   Is that 160 --

12:34PM 8   MR. EISENBERG: If I could interpose with a late

12:34PM 9   objection is there's a difference between people who are

12:34PM 10   armed and people who have permits.

12:34PM 11   I think there was a change in the question there

12:34PM 12   from one to the other.

12:34PM 13   MR. BRADY: I was going to -- there was a change

12:34PM 14   in the answer, not a change in the question which I was

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12:34PM 15   going to ask him about right now.

12:34PM 16   Q   So is 160 the number of mass shootings?

12:34PM 17   A   Yeah, they looked at 160 --

12:34PM 18   MR. EISENBERG: Or is that the number of mass

12:34PM 19   shootings that were stopped?

12:34PM 20   THE WITNESS: No, they looked at 160 mass

12:34PM 21   shootings. And then found that one out of 160 was stopped

12:34PM 22   by an active duty Marine who happened to have a permit.

12:35PM 23   But no one other case of an armed private citizen

12:35PM 24   who wasn't security personnel or a policeman stopping a

12:35PM 25   mass shooting in the FBI study.

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12:35PM 1   BY MR. BRADY:

12:35PM 2   Q   You're basing that on the FBI report, is that --

12:35PM 3   is that accurate?

12:35PM 4   A   Yes.

12:35PM 5   Q   Did you consider anything else in coming to that

12:35PM 6   determination?

12:35PM 7   A   Well, I considered the FBI report and other

12:35PM 8   evidence that I was aware of.

12:35PM 9   Q   Do you recall from the last time we met,

12:35PM 10   Exhibit 12 to this deposition which was an Internet

12:35PM 11   website that purported to compile cases where permit

12:36PM 12   holders had stopped mass shootings?

12:36PM 13   A   Yeah, I remember seeing that document.

12:36PM 14   Q   Did you review it since?

12:36PM 15   A   Uh --

12:36PM 16   Q   Did you review that before your interview with

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12:38PM 19   A   Yes.

12:38PM 20   Q   So do you have any studies showing the number of

12:38PM 21   gun thefts in right-to-carry states increasing --

12:38PM 22   A   Umm --

12:38PM 23   Q   -- following the adoption of a right-to-carry

12:38PM 24   law?

12:38PM 25   A   There's a very good study done by Hemingway,

                                                                    322

12:38PM 1   Azrael, and Miller that looks at what are the factors that

12:38PM 2   lead to guns being lost and stolen. And one of the

12:38PM 3   important factors was, you know, do you have a permit to

12:38PM 4   carry a gun.

12:39PM 5   Q   And that helped determine whether the amount of

12:39PM 6   thefts in right-to-carry states were increased?

12:39PM 7   A   Yes, that was the conclusion and police have made

12:39PM 8   this very emphatic that as soon as you start carrying a

12:39PM 9   gun in a car and leaving a gun in a car, you are going to

12:39PM 10   be arming the criminals because they know where the guns

12:39PM 11   are.

12:39PM 12   And there was just recently a case where someone

12:39PM 13   broke into, you know, a large number of guns -- I believe

12:39PM 14   it was in Georgia -- a large number of cars, and in a very

12:39PM 15   high percentage of the cars found guns that were then

12:39PM 16   stolen.

12:39PM 17   Q   On that note, you also say -- and let me, I'll --

12:40PM 18   if you want I can give you the page.

12:40PM 19   It's the page after the one we were previously

12:40PM 20   talking about, starting with paragraph, "But," it says:

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12:40PM 21 "But there are also so many other ways in which carrying

12:40PM 22 concealed handguns creates problems. One huge way is that

12:40PM 23 guns are much more likely to be stolen when you're taking

12:40PM 24 them around town and walking around. We've seen this

12:40PM 25 quite a bit in California over the last couple of years.

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12:40PM   1   "A number of incidents in San Francisco got a lot

12:40PM   2 of headlines when somebody left their gun in their car, a

12:40PM   3 permit holder, and somebody breaks into the car and steals

12:40PM   4 the gun and within a day or so, or even a number of hours,

12:40PM   5 murders someone on the street."

12:40PM   6   Can you cite a single example of a California --

12:40PM   7 California permit holder whose firearm was stolen from

12:40PM   8 their car?

12:40PM   9   A   I mean, I can't give you any names but there are

12:41PM 10 prominent murders in San Francisco and Marin that involved

12:41PM 11 that exact pattern.

12:41PM 12   Q   Are you referring to the young lady who was

12:41PM 13 murdered on the San Francisco pier?

12:41PM 14   A   That was one person, but there were others as

12:41PM 15 well.

12:41PM 16   Q   Your quote is: "When somebody left their gun in

12:41PM 17 a car, a permit holder..." So is it your understanding

12:41PM 18 that the person who left the gun in the car in San

12:41PM 19 Francisco that was used to murder I believe her name was

12:41PM 20 Kate Steinle, was a permit holder?

12:41PM 21   A   Yes, that person did have a permit to carry a

12:41PM 22 gun.

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12:41PM 23   Q   Wasn't that person a federal peace officer?

12:41PM 24   A   Right, but would have a permit to carry a gun.

12:42PM 25   Q   Why would a federal peace officer need a permit

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12:42PM 1   to carry a gun?

12:42PM 2   MR. EISENBERG: Objection; argumentative.

12:42PM 3   BY MR. BRADY:

12:42PM 4   Q   Is it your understanding of California law that a

12:42PM 5   federal peace officer needs a permit to carry a firearm?

12:42PM 6   MR. EISENBERG: Objection; vague and ambiguous as

12:42PM 7   to "permit."

12:42PM 8   BY MR. BRADY:

12:42PM 9   Q   A concealed -- C.C.W. permit holder the type of

12:42PM 10   permit you're referring to in this article?

12:42PM 11   MR. EISENBERG: Objection; mischaracterizes the

12:42PM 12   content of article.

12:42PM 13   A   Yeah, this statement is accurate.   It just said

12:42PM 14   that they had permission to carry a gun which means that

12:42PM 15   they had permission to carry a gun.   So this was not a

12:42PM 16   criminal, this was someone with a lawful right-to-carry.

12:42PM 17   And if you remember the subsequent crime where a

12:42PM 18   couple of people in Golden Gate Park stole the gun, and

12:42PM 19   was used for a subsequent murder, we had the same

12:43PM 20   situation yet again.

12:43PM 21   BY MR. BRADY:

12:43PM 22   Q   And do you know whether that person was a

12:43PM 23   concealed weapon permit holder?

12:43PM 24   MR. EISENBERG: Objection; vague and ambiguous as

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12:43PM 25   to "person."

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12:43PM 1   BY MR. BRADY:

12:43PM 2   Q   The owner -- the lawful owner of the firearm

12:43PM 3   which was stolen in the case you just described, was that

12:43PM 4   person a permit holder?

12:43PM 5   A   That is my understanding.

12:43PM 6   Q   And where did you get that information from?

12:43PM 7   A   I seem to recall that from press reports at the

12:43PM 8   time. I would have to look back to see where exactly.

12:43PM 9   Q   Would -- would an officer in a non right-to-carry

12:43PM 10   state, would you refer to them as a permit holder?

12:43PM 11   A   An officer in a non right-to-carry state, so are

12:43PM 12   you talking about the Steinle murder?

12:43PM 13   Q   A police officer has permission to carry a

12:43PM 14   firearm; correct?

12:44PM 15   A   Yes. Yes.

12:44PM 16   Q   And so a police officer in a non right-to-carry

12:44PM 17   state such as California, would you consider that person a

12:44PM 18   permit holder?

12:44PM 19   A   Well, that's semantic. Anyone who has lawful

12:44PM 20   permission to carry a gun can be thought of as a permit

12:44PM 21   holder.

12:44PM 22   But the point is the same, that anyone who leaves

12:44PM 23   a gun in a car is making it more likely it will be stolen.

12:44PM 24   And we know instances where permit holders have left guns

12:44PM 25   in California cars and they have been stolen, and we don't

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12:44PM   1   know who was killed with those weapons.
12:44PM   2            But we certainly know, even Sean Penn has
12:44PM   3   acknowledged that he lost two guns when his car was stolen
12:45PM   4   in Berkeley.
12:45PM   5        Q   And you also say that they get stolen when people
12:45PM   6   are walking around.  Do you have any examples of people
12:45PM   7   having had firearms stolen while lawfully walking around
12:45PM   8   with them in California?
12:45PM   9        A   Let's see what I said here.
12:45PM  10            Yeah, so I said:  "One huge way is guns are much
12:45PM  11   more likely to be stolen when you're taking them around
12:45PM  12   town and walking around."
12:45PM  13            And so what I meant by that is if you're carrying
12:45PM  14   a gun outside your home, it's much more likely to be
12:45PM  15   stolen.  So when you're walking around and put it down as
12:45PM  16   I often do with my cell phone, it's much more susceptible
12:45PM  17   to be stolen than if you're keeping it in your home.
12:45PM  18            And so if you look at cell phone thefts and gun
12:46PM  19   thefts, they're both higher outside the home than they are
12:46PM  20   inside the home.
12:46PM  21        Q   Have you seen any reports of an individual
12:46PM  22   setting their firearm down in public and it being stolen?
12:46PM  23        A   There -- there have been many reports of that.
12:46PM  24   Many, many, reports.
12:46PM  25        Q   Can you recollect one?
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12:46PM 1   A   You know, I don't catalogue all of the news
12:46PM 2   stories, but I could certainly find you many news stories
12:46PM 3   of people who have left their guns somewhere and had them
12:46PM 4   taken or simply lost them.
12:47PM 5   I was reading an article I think just last week
12:47PM 6   where the police found a gun in a park that was left
12:47PM 7   behind, so this is -- this is a very common occurrence and
12:47PM 8   one of the ways in which gun carrying contributes to
12:47PM 9   increases in violent crime.
12:47PM 10   Q   You didn't cite any studies or reports of that in
12:47PM 11   your study or report; correct?
12:47PM 12   A   Well, I just mentioned the Hemingway, et. al.
12:47PM 13   study that said one of the significant factors in
12:47PM 14   explaining the large number of guns stolen in the United
12:47PM 15   States is the fact that the person whose gun was stolen
12:47PM 16   had the right-to-carry that gun around. That made it more
12:47PM 17   likely that their gun would be stolen. And so that is a
12:48PM 18   very credible statistical support.
12:48PM 19   On top of that we have many anecdotal studies or
12:48PM 20   anecdotal stories about the theft of guns by permit
12:48PM 21   holders in California and elsewhere.
12:48PM 22   Q   And did that Hemingway study have any examples of
12:48PM 23   people leaving their firearms behind in a public place?
12:48PM 24   MR. EISENBERG: Objection; noting that the
12:48PM 25   Hemingway study is not present at the deposition.

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12:48PM 1   THE WITNESS: Yeah, the Hemingway study --
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10   (Off the record)

01:02PM 11   (Recess)

01:02PM 12   MR. BRADY: John, are you ready to go on the

01:02PM 13   record?

01:02PM 14   MR. EISENBERG: Yes.

15

16   EXAMINATION

17

01:02PM 18   BY MR. EISENBERG:

01:02PM 19   I am John Eisenberg, counsel for the Attorney

01:02PM 20   General Javier Becerra in this matter, and I wanted to

01:02PM 21   conduct some redirect of Professor Donohue to which

01:02PM 22   Mr. Brady has indicated he is not in opposition.

01:03PM 23   So I wanted to mark a couple exhibits and talk

01:03PM 24   about them or ask questions about them. The first one is

01:03PM 25   the April 2016 paper from the Executive Office of the

                                                              333

01:03PM 1   President of the United States, entitled: Economic

         2   Perspective on Incarceration in the Criminal Justice

01:03PM 3   System.

01:03PM 4   THE WITNESS: Yes.

01:03PM 5   MR. EISENBERG: I'll go ahead and continue with

01:03PM 6   the empirical ordering that we already have for exhibits

01:03PM 7   unless somebody objects.

01:03PM 8   I think this is 15.

01:03PM 9   THE REPORTER: This will be Exhibit 16.

01:03PM 10   (Exhibit 16 marked)

01:03PM 11   MR. BRADY: I'm sorry, John. I'm -- which one is
                                    Page 95

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01:03PM 12 this?

01:03PM 13   MR. EISENBERG: Okay. It's called Economic

01:04PM 14 Perspectives on Incarceration in the Criminal Justice

01:04PM 15 System. It's one of the papers that I sent around last

01:04PM 16 night.

01:04PM 17   MR. BRADY: Yeah, I'm opening all those right

01:04PM 18 now.

01:04PM 19   Okay. I got it, got it, got it.

01:04PM 20   BY MR. EISENBERG:

01:04PM 21   Q   So I'm just asking some questions related to the

01:04PM 22 topic of whether increasing the number of police in a

01:04PM 23 jurisdiction has an effect on the crime rates.

01:04PM 24   Professor Donohue, you've conducted research on

01:04PM 25 that question; correct?

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01:04PM 1   A   Yes, I have.

01:04PM 2   Q   And what, in general, in layperson's terms, have

01:04PM 3 you found to be the relationship between increasing the

01:04PM 4 size of a police force in a jurisdiction and crime rates

01:04PM 5 in that jurisdiction?

01:04PM 6   A   I think the -- the overwhelming finding of the

01:05PM 7 best studies is that increasing police manpower reduces

01:05PM 8 crime and specifically the most serious violent crime,

01:05PM 9 more powerfully than less serious or property crime.

01:05PM 10   Q   Let me have you turn to page 5 of -- well, first

01:05PM 11 of all, have you -- have you ever seen this Economic

01:05PM 12 Perspectives report before?

01:05PM 13   A   Yes, this is -- this is a prominent report that I

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01:05PM 14   was actually going to assign to my advanced criminal law

01:05PM 15   class in the fall.

01:05PM 16   Q   Now, your understanding is this comes from the

01:05PM 17   Council of Economic Advisors to the President of the

01:05PM 18   United States?

01:05PM 19   A   That's correct.

01:05PM 20   Q   Can you tell a layperson who doesn't follow the

01:06PM 21   news generally what the Council of Economic Advisors is?

01:06PM 22   A   Well, the Council of Economic Advisors is

01:06PM 23   supposed to be the most important academic advice-giving

01:06PM 24   body on matters of economic policy to the President and it

01:06PM 25   has a long and august tradition and many Nobel prize

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01:06PM   1   winners starting with Jim Tobin of Yale who served for

01:06PM   2   President Kennedy, have served on the Council of Economic

01:06PM   3   Advisors.

01:06PM   4   Q   So the Council of Economic Advisors occasionally

01:06PM   5   puts out papers that the public can read; correct?

01:06PM   6   A   Every year that -- every year the President will

01:06PM   7   issue a report called the Economic Report of the President

01:06PM   8   and that is prepared by the Council of Economic Advisors.

01:06PM   9   And they will also issue reports on matters of, you know,

01:07PM 10   significance that some of their staff puts out.

01:07PM 11   Q   So you mentioned that you have assigned this

01:07PM 12   paper for study by some of your advanced students.

01:07PM 13   Is it the case that people in your academic

01:07PM 14   discipline would consider this paper something credible

01:07PM 15   just based on who the authors are?

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01:07PM 16   A   Yes, all top economists would -- would consider
01:07PM 17 the economic or the Council of Economic Advisors to be a
01:07PM 18 credible resource for matters of economic policy.
01:07PM 19   Q   Okay. So I'll turn you to page 5, there's a
01:07PM 20 quote that I'll just read into the record. It's toward
01:07PM 21 the top of the page.
01:07PM 22   It says: "Expanding resources for police has
01:07PM 23 consistently been shown to reduce crime. Estimates from
01:08PM 24 economic research suggests that a 10% increase in police
01:08PM 25 force size decreases crime by 3 to 10%."

                                                            336

01:08PM 1   Do you believe that that statement reflects a
01:08PM 2 credible opinion of economists?
01:08PM 3   A   I think that statement is a sort of accurate
01:08PM 4 description of a lot of research that has been done on the
01:08PM 5 impact of police over the last 25 years.
01:08PM 6   Q   Do you have a sense of whether there is a
01:08PM 7 majority of opinion or a minority opinion among academic
01:08PM 8 economists on the question of the relationship between the
01:08PM 9 size of a police force and crime rates?
01:08PM 10   A   I think that this statement captures the
01:08PM 11 overwhelming sentiment of the academic economists who
01:09PM 12 study -- study crime.
01:09PM 13   Q   Are you aware that Professor Kleck has indicated
01:09PM 14 that it's the majority view, at least among
01:09PM 15 criminologists, that the size of the police force has no
01:09PM 16 effect on crime rates?
01:09PM 17   MR. BRADY: Objection; misstates testimony.
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01:09PM 18   A   I'm aware of those statements.

01:09PM 19   BY MR. EISENBERG:

01:09PM 20   Q   Is Professor Kleck correct that that view is a

01:09PM 21 majority view among criminologists?

01:09PM 22   A   It's -- it's hard to know if it was ever a

01:09PM 23 majority view.

01:09PM 24   I do think many criminologists believed that 30

01:09PM 25 or 40 years ago, and you can find a number of quotes to

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01:09PM   1 that effect in the literature, 30 to 40 years ago. I

01:10PM   2 don't think it's a widely held view among top

01:10PM   3 criminologists today.

01:10PM   4   Q   If I could move you over to page 40 of the

01:10PM   5 report; namely, Exhibit 16.

01:10PM   6   A   Yep.

01:10PM   7   Q   I'll read the -- aloud the second sentence after

01:10PM   8 the subheading: Police and Crime Reduction.

01:10PM   9   It says: "Economic research has consistently

01:10PM 10 shown that police reduce crime in communities and most

01:10PM 11 estimates show that investments in police reduce crime

01:10PM 12 more effectively than either increasing incarceration or

01:10PM 13 sentence severity."

01:11PM 14   Is that statement one that academic economists

01:11PM 15 would consider to be credible?

01:11PM 16   A   Yes, I think -- I think most academic economists

01:11PM 17 and top criminologists like Dan Nagin of Carnegie Mellon,

01:11PM 18 or David Weisburd of George Mason, both criminologists,

01:11PM 19 would accept this view.

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01:11PM 20   Q   Do you know if multiple different studies have
01:11PM 21 reached that general conclusion about the relationship
01:11PM 22 between police and crime rates?
01:11PM 23   A   Yes, many studies have reached that conclusion.
01:11PM 24   Q   And do you know if the different studies have
01:11PM 25 used different methodologies?

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01:11PM 1   A   Indeed they have.
01:12PM 2   MR. EISENBERG: I'd like to mark another exhibit,
01:12PM 3 which is the paper called Criminal Deterrents: A Review
01:12PM 4 of the Literature.   And we'll make that Exhibit 17.
01:12PM 5   (Exhibit 17 marked)
01:12PM 6   BY MR. EISENBERG:
01:12PM 7   Q   Professor Donohue, have you ever seen this paper
01:12PM 8 before?
01:12PM 9   A   Yes, I have.
01:12PM 10   Q   Are you familiar with the journal called the
01:12PM 11 Journal of Economic Literature?
01:12PM 12   A   Yes, it's one of the top journals in economics.
01:12PM 13   Q   Let me direct you to page 37 of this report which
01:12PM 14 is essentially in the conclusion part of the report.
01:13PM 15   A   Yes.
01:13PM 16   Q   So we've got this heading: Conclusion, it's got
01:13PM 17 the number 6 right by it.   Couple of sentences down the
01:13PM 18 authors are giving their "key conclusions."
01:13PM 19   "First, there is robust evidence that crime
01:13PM 20 responds to increases in police manpower and to many
01:13PM 21 varieties of police redeployment."
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01:13PM 22   Do you believe that that is an accurate statement

01:13PM 23 reviewing the literature in this academic area?

01:13PM 24   A   Yes, I do.

01:13PM 25   Q   Next statement, I'll go ahead and read it.

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01:13PM 1   "With respect to manpower, our best guess is that

01:13PM 2 the elasticity of violent crime and property crime with

01:13PM 3 respect to police are approximately negative .4 and

01:13PM 4 negative .2 respectively."

01:14PM 5   Do the -- what do negative numbers that are in

01:14PM 6 that sentence indicate?

01:14PM 7   A   Well, this is referring to the findings that I

01:14PM 8 mentioned earlier that if you increase your police force,

01:14PM 9 you will get reduction in crime, but about twice as great

01:14PM 10 for violent crime as for property crime.

01:14PM 11   And if you looked at murder it would be greater

01:14PM 12 still as the most egregious violent crime.

01:14PM 13   Q   Okay.

01:14PM 14   And if you'll turn to the reference page in the

01:14PM 15 report, it begins on page 41.   But it continues for

01:14PM 16 about -- maybe, what, like eight -- seven, eight pages?

01:15PM 17   A   Yes.

01:15PM 18   Q   Have you looked at this list of references

01:15PM 19 before?

01:15PM 20   A   Yeah, it's a very extensive literature review

01:15PM 21 which is exactly what the Journal of Economic Literature

01:15PM 22 is for. It tries to get, you know, the absolute top

01:15PM 23 people in a certain area to rehearse the full array of

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01:15PM 24   studies and summarize them for the profession.

01:15PM 25   Q   So if we could turn to Page 44.   Second column

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01:15PM 1   toward the bottom, you see that there are a couple papers

01:15PM 2   by Gary Kleck that are referenced.

01:15PM 3   A   Yes.

01:16PM 4   Q   So does that -- you believe that this Journal of

01:16PM 5   Economic Literature did consider the opinions and the

01:16PM 6   research of Professor Kleck when making its conclusions?

01:16PM 7   A   Yes, it did.

01:16PM 8   Q   All right.   Then I'll also turn you back one page

01:16PM 9   to 43, and there are four papers listed there by John

01:16PM 10   J. Donohue.

01:16PM 11   That's you and those are your papers; correct?

01:16PM 12   A   Yes, indeed.

01:16PM 13   Q   And so you understand that your research was

01:16PM 14   considered and your opinion was considered in this

01:16PM 15   literature review?

01:16PM 16   A   Yes, that's correct.

01:16PM 17   Q   I'd like to switch topics to the concept of

01:16PM 18   synthetic controls as an analytical tool used by

01:17PM 19   statisticians and economists.

01:17PM 20   A   Okay.

01:17PM 21   Q   Are you aware that Professor Kleck in his

01:17PM 22   deposition suggested that synthetic controlled analysis is

01:17PM 23   not well enough established to be used with confidence

01:17PM 24   among economists and statisticians?

01:17PM 25   A   That was my understanding.
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01:17PM 1   MR. BRADY: Objection; misstates testimony.
01:17PM 2   BY MR. EISENBERG:
01:17PM 3   Q   Do you have an opinion about whether synthetic
01:17PM 4   control analysis is generally accepted by academic
01:17PM 5   economists doing research on long public policy?
01:17PM 6   A   It certainly has been widely accepted by
01:17PM 7   empirical researchers trying to estimate the effect of law
01:17PM 8   or policy treatments.
01:18PM 9   Q   And has it been used in academic papers?
01:18PM 10   A   Yes, a very large and growing number of papers
01:18PM 11 rely on the synthetic controls methodology.
01:18PM 12   Q   Okay.
01:18PM 13   MR. EISENBERG: So I'd like to mark as Exhibit 18
01:18PM 14 the Athey and Imbens article, State of Applied
01:18PM 15 Econometrics.
01:18PM 16   THE WITNESS: Okay.
        17   (Reporter clarification)
        18   (Exhibit 18 marked)
        19   BY MR. EISENBERG:
01:18PM 20   Q   Have you had seen this paper before?
01:18PM 21   A   I have.
01:18PM 22   Q   Have you heard of either of the authors of these
01:18PM 23 papers -- of this paper before?
01:18PM 24   A   Yes, I actually know both of these authors.
01:18PM 25 They're very top-flight economists and econometricians.

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01:19PM 1   Q   So Professor Athey, I understand, has won the
01:19PM 2   John Bates Clark Medal.
01:19PM 3   Is that your understanding?
01:19PM 4   A   Yes, I think she was the first female winner of
01:19PM 5   the John Bates Clark Medal which is often referred to as
01:19PM 6   sort of the junior Nobel prize in economics.
01:19PM 7   Q   Right. That's what I was going to ask you, is if
01:19PM 8   there's significance in your field that's somebody would
01:19PM 9   win this award.
01:19PM 10   In other words, what is it an indication of?
01:19PM 11   A   It's usually given to the absolute most elite
01:19PM 12   professors, two of my coauthors have -- have won it. It
01:19PM 13   can only be given to people before age 40.
01:19PM 14   But one of my coauthors who won it won the Nobel
01:19PM 15   prize, and I wouldn't be surprised if my other coauthor
01:19PM 16   who won it, does go on to win the Nobel prize.
01:19PM 17   Q   And then the other -- the other author is
01:20PM 18   Professor Imbens, do you know where he's a professor --
01:20PM 19   strike that.
01:20PM 20   It says here he's a professor at Stanford GSB.
01:20PM 21   You can confirm that?
01:20PM 22   A   Yeah, he was at Harvard for a number of years and
01:20PM 23   moved to Stanford a few years ago.
01:20PM 24   Q   Would he be considered an expert in econometrics?
01:20PM 25   A   He is one of the most elite econometricians

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01:20PM 1   today.

01:20PM 2   Q   All right, let -- I'm going to turn you to page 9

01:20PM 3   of the report, or of the paper, rather.

01:20PM 4   And I'll read this sentence into the record:

01:20PM 5   "This synthetic control approach developed by Abadie,

01:20PM 6   Diamond, and Hainmueller, 2010-2014, and Abadie and

01:20PM 7   Gardeazabal, 2003, is arguably the most important

01:20PM 8   innovation in the policy evaluation literature in the last

01:21PM 9   15 years."

01:21PM 10   Do you see that statement?

01:21PM 11   A   Yes.

01:21PM 12   Q   Do you believe that that is a generally held

01:21PM 13   opinion among academic economists as to the importance of

01:21PM 14   synthetic control approach?

01:21PM 15   MR. BRADY: Objection; lacks foundation; calls

01:21PM 16   for speculation.

01:21PM 17   A   I think among, you know, elite applied

01:21PM 18   researchers, this is the generally accepted view.

01:21PM 19   BY MR. EISENBERG:

01:21PM 20   Q   So as to the view of Professor Kleck, it's unwise

01:21PM 21   to use this approach until there are more -- there's more

01:21PM 22   verification of its pros and cons.

01:21PM 23   Do you agree with that statement?

01:21PM 24   MR. BRADY: Objection; misstates testimony.

01:21PM 25   A   I would not agree with that statement.

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01:21PM 1   BY MR. EISENBERG:

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01:21PM 2   Q   Do you believe that statement reflects any -- a

01:22PM 3   majority view among criminologists?

01:22PM 4   MR. BRADY: Objection; misstates testimony.

01:22PM 5   A   I don't believe that that's a majority view among

01:22PM 6   applied criminologists.

01:22PM 7   BY MR. EISENBERG:

01:22PM 8   Q   Professor Kleck has criticized the reliability of

01:22PM 9   certain crime data.

01:22PM 10   Are you aware of that?

01:22PM 11   A   Yes.

01:22PM 12   MR. BRADY: Objection; vague as to "certain crime

01:22PM 13   data."

01:22PM 14   MR. EISENBERG: I agree. I'll try to get more

01:22PM 15   specific. That was sort of the general opening question.

01:22PM 16   Q   Professor Kleck has written critiques of the use

01:22PM 17   of county-level crime data.

01:22PM 18   Are you aware of that, Professor Donohue?

01:22PM 19   A   Yes, I am.

01:22PM 20   Q   Are you aware of the general nature of Professor

01:23PM 21   Kleck's critique?

01:23PM 22   MR. BRADY: Objection; calls for speculation.

01:23PM 23   MR. EISENBERG: No, I'm asking -- I'm trying to

01:23PM 24   establish that Professor Donohue knows what Professor

01:23PM 25   Kleck has written.

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01:23PM 1   A   Yes, I'm generally aware of his critique of

01:23PM 2   county-level crime data.

01:23PM 3   Q   Do you believe there is any merit to the

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01:23PM 4   critique?

01:23PM 5   MR. BRADY: Objection; misstates testimony; calls

01:23PM 6   for speculation; lacks foundation.

01:23PM 7   A   I do agree with him that there are problems with

01:23PM 8   county-level crime data.

01:23PM 9   BY MR. EISENBERG:

01:23PM 10   Q   Are you aware that Professor Kleck has also made

01:23PM 11   critiques of data about aggravated assaults?

01:23PM 12   MR. BRADY: Objection; calls for speculation and

01:23PM 13   misstates testimony; vague and ambiguous.

01:24PM 14   A   Yes, it is my understanding of his report that he

01:24PM 15   is critical of the data on aggravated assault.

01:24PM 16   BY MR. EISENBERG:

01:24PM 17   Q   Do you believe that aggravated assault data as

01:24PM 18   compiled by the FBI in Uniform Crime Reports is not

01:24PM 19   appropriate for academic analysis?

01:24PM 20   A   No, I do not agree with that.

01:24PM 21   Q   Do you believe that that data is appropriate for

01:24PM 22   academic analysis?

01:24PM 23   A   Yes, and all of those studies that were referred

01:24PM 24   to by the Council of Economic Advisors, and the paper by

01:24PM 25   Justin McCrary and his coauthor, relied on that Uniform

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01:24PM 1   Crime Reports' data in their conclusions about the impact

01:24PM 2   of police on violent crime.

01:25PM 3   Q   So you somewhat anticipated my question which is

01:25PM 4   that is it -- is it a generally accepted view among

01:25PM 5   academic economists that the FBI UCR data on aggravated

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01:25PM   6   assault is -- is reliable enough to be used in academic

01:25PM   7   study?

01:25PM   8   MR. BRADY: Objection; lacks foundation; calls

01:25PM   9   for speculation.

01:25PM 10   A   Yes, that is true.

01:25PM 11   BY MR. EISENBERG:

01:25PM 12   Q   Is there such a thing as a perfect set of data

01:25PM 13   that gives a researcher 100% confidence in the results

01:25PM 14   generated from that data?

01:25PM 15   A   No, every -- every data set will have some

01:25PM 16   problems.

01:25PM 17   For many years I thought that the murder data was

01:25PM 18   the best, but I was recently at a conference in Boston

01:26PM 19   where one of the top researchers told me that he thought I

01:26PM 20   should use the Vital Statistics Counts for murder rather

01:26PM 21   than the Uniform Crime Reports' counts.

01:26PM 22   So even -- even the count of murder which is

01:26PM 23   often thought to be the best, has some potential issues

01:26PM 24   with it.

01:26PM 25   Q   Let me refer you back to Exhibit 14, which is the

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01:26PM   1   FBI table that Mr. Brady set before you.

01:26PM   2   A   Okay.

01:26PM   3   Q   Do you -- have -- forgive me if I'm asking a

01:26PM   4   question that was already asked, but have you seen this --

01:26PM   5   this type of data before in your academic work?

01:26PM   6   A   Yes.

01:26PM   7   Q   And have you ever made note of the variation from

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01:26PM 8 year to year of the different categories of crimes?

01:27PM 9   A   Yes.   There will be errors in these numbers that

01:27PM 10 the Bureau of Justice Statistics will go back and correct.

01:27PM 11   And so, for example, one of the reasons that I

01:27PM 12 revised my paper was that the Bureau of Justice Statistics

01:27PM 13 found some errors in the 2012 crime data, and when they

01:27PM 14 updated their -- their data I went back and re-did the

01:27PM 15 analysis so that I was sure to have the best available

01:27PM 16 data when -- when I presented my results.

01:27PM 17   Q   Okay.   So obviously there is the, the numbers

01:27PM 18 change from year to year for each category; correct?

01:27PM 19   A   Yeah, I mean, not --

01:27PM 20   Q   Go ahead --

01:27PM 21   A   Of course, crime will change every year because

01:28PM 22 there are influences on crime either bumping it up or

01:28PM 23 reducing it.

01:28PM 24   But there are also questions about, you know, the

01:28PM 25 accuracy of the measurement in any one year and more

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♀

01:28PM 1 likely for individual states than for the nation as a

01:28PM 2 whole.

01:28PM 3   Q   In this aggregated data is data for aggravated

01:28PM 4 assaults more fluctuating than the data for the other

01:28PM 5 individual crimes?

01:28PM 6   MR. BRADY: Objection; calls for speculation;

01:28PM 7 vague, ambiguous as to "flexible."

01:28PM 8   A   I mean, in general, the -- the larger the crime

01:28PM 9 category, the less volatile you would expect that crime

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01:28PM 10   category to be.

01:28PM 11   And since aggravated assault is, for example,

01:28PM 12   more common than murder, you would expect aggravated

01:29PM 13   assault to be a less volatile series than the time series

01:29PM 14   for murder.

01:29PM 15   Q   Is that, in fact, true?

01:29PM 16   A   Yes.

01:29PM 17   Q   Let me ask you about the third column from the

01:29PM 18   left, which is: Violent Crime.

01:29PM 19   If you'll see there's a footnote right there in

01:29PM 20   the header for the column. And if you turn to the second

01:29PM 21   page you see -- the second page at least of my printout,

01:29PM 22   you see what that footnote says and it says: The violent

01:29PM 23   crime figures include the offenses of murder, rape, legacy

01:29PM 24   definition, robbery and aggravated assault.

01:29PM 25   A   Yep.

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01:29PM 1   Q   Is it your understanding that the FBI has this

01:29PM 2   category of violent crime that includes murder, rape,

01:29PM 3   robbery, and aggravated assault?

01:29PM 4   A   Yes, it does.

01:29PM 5   Q   So when you did your study with some aggregated

01:30PM 6   crimes you were using the FBI definition of violent crime

01:30PM 7   other than the fact that you separated out murder; is that

01:30PM 8   right?

01:30PM 9   MR. BRADY: Objection; lacks foundation.

01:30PM 10   A   Yes, I did the analysis in a number of different

        11   ways.

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01:30PM 12   So if you look at the first column of my analysis
01:30PM 13   I would typically show in the panel data the murder rate,
01:30PM 14   the second column the count of murders, and the third
01:30PM 15   column would be violent crime which would include all of
01:30PM 16   the crime that the FBI considers to be in the violent
01:30PM 17   crime category.
01:30PM 18   BY MR. EISENBERG:
01:30PM 19   Q   Are you aware that Professor Kleck accused you of
01:30PM 20   putting rape, robbery, and aggravated assault together in
01:31PM 21   order to obscure the weakness of your results?
01:31PM 22   MR. BRADY: Objection; misstates testimony;
01:31PM 23   argumentative; lacks foundation; calls for speculation.
01:31PM 24   A   I was aware of that general claim.
01:31PM 25   BY MR. EISENBERG:

                                                                    350

01:31PM 1   Q   Did you, in fact, aggregate those crime
01:31PM 2   categories to obscure the weaknesses in your results?
01:31PM 3   MR. BRADY: Objection; compound question.
01:31PM 4   A   No, I mean, I -- I followed a very
01:31PM 5   well-established tradition of looking at violent crime
01:31PM 6   rates.
01:31PM 7   But there was also a very particular benefit in
01:31PM 8   the synthetic controls analysis because the conclusion
01:31PM 9   across every set of explanatory variables that I looked
01:32PM 10   at, and those were the ones that we'd been speaking of, my
01:32PM 11   set of explanatory variables -- the Brennan Center, the
01:32PM 12   Lott and Mustard, as well as the Marvell and Moody set of
01:32PM 13   explanatory variables, all gave robust and strongly

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01:32PM 14 significant findings that the adoption of a right-to-carry

01:32PM 15 law would lead to increases in violent crime.

01:32PM 16   And that finding was the single most robust and

01:32PM 17 consistent finding in all of my analysis. And so it was

01:32PM 18 therefore very helpful to be able to show a very strongly

01:32PM 19 robust finding in a literature that has often been

01:32PM 20 somewhat frustrating to researchers because the results

01:33PM 21 were more variable than a researcher would ordinarily

01:33PM 22 like.

01:33PM 23   BY MR. EISENBERG:

01:33PM 24   Q   And you did a 2014 paper on roughly the same

01:33PM 25 topic as your new paper; correct?

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01:33PM 1   A   That's correct.

01:33PM 2   Q   And at least one of the coauthors there is also a

01:33PM 3 coauthor on the current paper; correct?

01:33PM 4   A   That's right.

01:33PM 5   Q   And in the 2014 paper you broke out the data for

01:33PM 6 aggravated assaults separately from other violent crime

01:33PM 7 categories; correct?

01:33PM 8   A   That's correct.

01:33PM 9   Q   What were -- what were your findings as to the

01:33PM 10 effect of right-to-carry laws on aggravated assault rates

01:33PM 11 per your 2014 paper?

01:33PM 12   A   That paper using the panel data analysis and the

01:33PM 13 models that we were employing found that aggravated was

01:34PM 14 elevated when right-to-carry laws were adopted.

01:34PM 15   Q   And since you submitted your expert report in

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01:34PM 16   this case, in the Flannigan case on June 1st, you've

01:34PM 17   done -- you've rerun some of your regression analyses

01:34PM 18   breaking out aggravated assault from the category violent

01:34PM 19   crime; correct?

01:34PM 20   MR. BRADY: Objection; assumes facts not in

01:34PM 21   evidence; lacks foundation.

01:34PM 22   Go ahead.

01:34PM 23   A   Yeah, as I testified in my first day of

01:34PM 24   deposition, I did respond, in my own mind at least, to the

01:35PM 25   criticisms that Professor Kleck had made by looking at the

                                                                    352

01:35PM 1   individual violent crime categories using the synthetic

01:35PM 2   controls approach.

01:35PM 3   BY MR. EISENBERG:

01:35PM 4   Q   And again, could you state generally what the

01:35PM 5   results were for the aggravated assault data in your new

01:35PM 6   paper?

01:35PM 7   MR. BRADY: Objection; vague and ambiguous as to

01:35PM 8   "new paper."

01:35PM 9   MR. EISENBERG: You are absolutely correct.   Let

01:35PM 10   me withdraw the question.

01:35PM 11   Q   Can you state what the results were for the rerun

01:35PM 12   analyses that you did for aggravated assault data after

01:35PM 13   the May 23rd posting of your paper?

01:35PM 14   MR. BRADY: Objection; assume facts not in

01:35PM 15   evidence; lacks foundation.

01:35PM 16   A   Yes.   The synthetic controls estimates,

01:35PM 17   regardless of the particular set of explanatory variables

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01:36PM 18 that was used, showed a highly statistically significant

01:36PM 19 impact on aggravated assault rising when right-to-carry

01:36PM 20 laws were about to...

01:36PM 21   BY MR. EISENBERG:

01:36PM 22   Q   All right. I'm going to refer you to a document

01:36PM 23 that I believe you have, but I'm not 100% certain if you

01:36PM 24 have it with you. It's the Kovandzic paper that we have

01:36PM 25 been talking about.

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01:36PM 1   I'll just read the title out. It says: "The

01:36PM 2 Impact of Shall-Issue Concealed Handgun Laws on Violent

01:36PM 3 Crime Rates: Evidence From Panel Data for Large Urban

01:36PM 4 Cities." The lead author is Tomislav, T-O-M-I-S-L-A-V,

        5 middle initial V, last name Kovandzic, K-O-V-A-N-D-Z-I-C.

01:36PM 6   I'm not sure if you have that paper in front of

01:37PM 7 you, but I want to ask you a question about how you

01:37PM 8 calculate certain numbers for this paper providing the

01:37PM 9 numbers.

01:37PM 10   Are you familiar with the Kovandzic paper that

01:37PM 11 I'm referring to right now, Professor?

01:37PM 12   A   Yes, I am.

01:37PM 13   Q   So I know you don't have it in front of you, but

01:37PM 14 there is a table -- table by which Professor Kovandzic and

01:37PM 15 his colleagues report on what's called the SI Law Final

01:37PM 16 Trends Variable, and I will represent to you that SI Law

01:37PM 17 essentially means right-to-carry law.

01:37PM 18   For the four violent crime categories for that

01:37PM 19 variable he provides the coefficient and a T ratio. Is --

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Eisenberg Decl. Ex. 2 - 068

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01:38PM 20 is T ratio something that is a term used by statisticians

01:38PM 21 or economists?

01:38PM 22   MR. BRADY: Objection; assumes facts not in

01:38PM 23 evidence; lacks foundation; lacks a question; leading;

01:38PM 24 misstates the evidence.

01:38PM 25   A   Yes, T ratio or T statistic is a statistic that's

(354)

01:38PM 1 generated by regression output that is designed to

01:38PM 2 establish the statistical significance of an estimated

01:38PM 3 coefficient.

01:38PM 4   BY MR. EISENBERG:

01:38PM 5   Q   Is there a relationship between what the T ratio

01:38PM 6 is and the statistical significance of the estimates

01:38PM 7 produced by whatever analysis is being done?

01:38PM 8   MR. BRADY: Objection; lacks foundation;

01:39PM 9 misstates the evidence; assume facts not in evidence.

01:39PM 10   A   Yes, if you have enough data the T statistic will

01:39PM 11 tell you exactly the level of statistical significance of

01:39PM 12 your estimate.

01:39PM 13   BY MR. EISENBERG:

01:39PM 14   Q   And there are numbers within the T ratio that are

01:39PM 15 associated with particular levels of statistical

01:39PM 16 significance.

01:39PM 17   MR. BRADY: Objection; assumes facts not in

01:39PM 18 evidence; misstates the evidence; lacks foundation.

01:39PM 19   A   Yeah, in general one would say if the T statistic

01:39PM 20 is greater in absolute value than 1.96, that would be an

01:39PM 21 indication of statistical significance at the .05 level.

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01:39PM 22   BY MR. EISENBERG:

01:39PM 23   Q   So in the Kovandzic paper his T ratio for his

01:39PM 24   assault data is 2.59. Just knowing that 2.59 is in the

01:40PM 25   chart, what does that tell you, if anything, about the

                                                                    355

01:40PM 1   statistical significance of his estimates?

01:40PM 2   MR. BRADY: Objection; misstates the evidence;

01:40PM 3   assume facts not in evidence; lacks foundation; calls for

01:40PM 4   speculation.

01:40PM 5   A   If you only knew the T statistic and didn't know

01:40PM 6   that he had, you know, like 3,800 observations in this

01:40PM 7   regression you may not know that much. But knowing that

01:40PM 8   he has about 3,800 observations it's -- it's obvious that

01:40PM 9   there are enough observations for the T statistic test

01:40PM 10   that I just explained to apply.

01:40PM 11   And therefore, since this is greater in absolute

01:40PM 12   value than 1.96, that would be an indication that it's

01:41PM 13   substantially above the statistical significance cut-off

01:41PM 14   for the 5% level.

        15   BY MR. EISENBERG:

01:41PM 16   Q   So the paper gives a sample size 3,863 for the

01:41PM 17   assault data.

01:41PM 18   Is that what you're referring to?

01:41PM 19   A   Yes.

01:41PM 20   MR. BRADY: Objection; assume facts not in

01:41PM 21   evidence; misstates the evidence; lacks foundation.

01:41PM 22   Let the record show that Counsel does not have --

01:41PM 23   Counsel for plaintiffs does not have this report in his

                              Page 116

Eisenberg Decl. Ex. 2 - 070

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01:41PM 24   possession, hence the objections on top of them being

01:41PM 25   valid.

(356)

01:41PM 1   MR. EISENBERG: Okay. I appreciate that.

01:41PM 2   It's -- it was the exhibit that we spent a lot of

01:41PM 3   time with in the Kleck deposition, I know you're familiar

01:41PM 4   with it and I apologize for not having gotten a copy of it

01:41PM 5   to you.

01:41PM 6   MR. BRADY: That's fine. I didn't want the

01:41PM 7   record to look like I'm being obstructionist without an

01:41PM 8   explanation.

01:41PM 9   MR. EISENBERG: I have no problem with your

01:41PM 10 objection and, in fact, I'm really just trying to

01:41PM 11 apologize for not getting you a copy. I'm not contesting

01:42PM 12 your objections.

01:42PM 13   THE WITNESS: Do you want me to print out a copy?

01:42PM 14   MR. EISENBERG: Well, I don't have that many

01:42PM 15 questions, but --

01:42PM 16   MR. BRADY: Just continue. Just continue on with

01:42PM 17 the objection; that's fine.

01:42PM 18   MR. EISENBERG: All right. I think that actually

01:42PM 19 is probably the fastest.

01:42PM 20   Q   So given -- if you have a sample size of 3,863, a

01:42PM 21 coefficient of .019 and a T ratio of 2.59, is it possible

01:42PM 22 to calculate a trend in assaults on a year-to-year basis?

01:42PM 23   Is it something that's possible to be done?

01:42PM 24   MR. BRADY: Objection; lacks foundation;

01:42PM 25 misstates the evidence; assume facts not in evidence;

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357

01:42PM 1   calls for speculation.

01:42PM 2   A   Yes.   So Kovandzic and coauthors estimated a

01:42PM 3   spline model.

01:42PM 4   So this .019 estimate should be telling us what

01:43PM 5   the annual growth in assault is for each year that a

01:43PM 6   right-to-carry law is in effect.

01:43PM 7   Q   Doesn't that work out to 1.9% per year?

01:43PM 8   MR. BRADY: Objection; calls for speculation;

01:43PM 9   assumes facts not in evidence; and misstates the evidence;

01:43PM 10   lacks foundation.

01:43PM 11   A   It's very close to 1.9%.   Sometimes people will

01:43PM 12   say 1.9 log points because this is a -- a model that is

01:43PM 13   done with a natural logarithm as the dependent variable.

01:43PM 14   But you can convert this into a precise number

01:43PM 15   just by following the appropriate statistical methodology.

01:44PM 16   BY MR. EISENBERG:

01:44PM 17   Q   Over a ten-year period this estimate would say

01:44PM 18   that assaults would go up by approximately 19 percent.

01:44PM 19   Is that a fair statement from this data?

01:44PM 20   MR. BRADY: Objection; misstates testimony;

01:44PM 21   assume facts not in evidence; lacks foundation.

01:44PM 22   A   Yes, that's what this would suggest.

01:44PM 23   BY MR. EISENBERG:

01:44PM 24   Q   And do you recall what the percentage was from

01:44PM 25   your study for aggravated assaults over a ten-year period

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professor DONOHUE 1-60

01:44PM 1   after the adoption of RTC laws?

01:44PM 2   A   It was something in the neighborhood of 16 to

01:44PM 3   17%.

01:44PM 4   Q   So as an academic do you consider the Kovandzic

01:44PM 5   paper to be generally supportive of your results for

01:44PM 6   aggravated assault?

01:45PM 7   A   Yes, I do.

01:45PM 8   MR. EISENBERG: I want to turn your attention now

01:45PM 9   to the document that is, I think the largest one.   It's

01:45PM 10   called UCR: Uniform Crime Reporting Handbook.

01:45PM 11   And if we could mark this exhibit next in order.

         12   (Exhibit 19 marked)

01:45PM 13   BY MR. EISENBERG:

01:45PM 14   Q   Okay.   Have you seen this document before?

01:45PM 15   A   Yes, I have.

01:45PM 16   Q   Can you describe what this document is for a

01:45PM 17   layperson?

01:45PM 18   A   Yes.   The FBI created something called the

01:46PM 19   Uniform Crime Report years ago, to -- to try to give the

01:46PM 20   best possible picture of crime in a uniform way across the

01:46PM 21   United States, because of the realization that states

01:46PM 22   varied quite a bit in their particular crime categories.

01:46PM 23   And if you didn't come up with a uniform

01:46PM 24   mechanism form compiling the data, it would be very hard

01:46PM 25   to compare what was happening in state A versus state B,

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01:54PM 9   Of course, we -- we know that there are

01:54PM 10   imperfections in this measure, but at least the FBI is

01:54PM 11   taking steps to making these judgments as uniform as

01:54PM 12   possible given the definitions and the scenarios that they

01:54PM 13   discussed.

14   BY MR. EISENBERG:

01:54PM 15   Q   Okay. I wanted to move on to another topic.

01:54PM 16   Now, you created your DAW models with explanatory

01:54PM 17   variables that you felt were the most appropriate and

01:54PM 18   relevant; correct?

01:54PM 19   A   That's correct.

01:54PM 20   Q   And yet you also ran your data through some other

01:54PM 21   published statistical models; correct?

01:54PM 22   A   That's correct.

01:54PM 23   Q   Are you aware that Professor Kleck criticized the

01:55PM 24   explanatory variables that you included in the DAW model

01:55PM 25   regarding demographics?

364

01:55PM 1   MR. BRADY: Objection; misstates the witness'

01:55PM 2   testimony; assumes facts not in evidence; vague and

01:55PM 3   ambiguous; lacks foundation.

01:55PM 4   A   Yes, I'm aware of that.

01:55PM 5   BY MR. EISENBERG:

01:55PM 6   Q   So would you say that you attempted in your DAW

01:55PM 7   model to control for the demographic factors from age,

01:55PM 8   gender, race, et cetera?

01:55PM 9   A   Yes, I did.

01:55PM 10   Q   Did you have a separate variable for each

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01:55PM 11   demographic facto?

01:55PM 12   A   I -- I combined race, age, and gender into

01:56PM 13   various categories.

01:56PM 14   Q   Is your combination of those variables into one

01:56PM 15   something that is idiosyncratic for your academic

01:56PM 16   practice?

01:56PM 17   MR. BRADY: Objection; vague and ambiguous; calls

01:56PM 18   for speculation.

01:56PM 19   A   No, in fact, we were earlier discussing the

01:56PM 20   Durlauf, Navarro, and Rivers papers, which did the exact

01:56PM 21   same thing. The Lott and Mustard paper did the exact same

01:56PM 22   thing. The Marvell and Moody did the exact same thing.

01:56PM 23   So it has been utilized in quite a large number

01:56PM 24   of other papers.

01:57PM 25   BY MR. EISENBERG:

365

01:57PM 1   Q   So therefore, do you agree or disagree with

01:57PM 2   Professor Kleck's contention that your use of a

01:57PM 3   combination variable of demographic factors, you know,

01:57PM 4   essentially weakens your study?

01:57PM 5   MR. BRADY: Objection; misstates the witness'

01:57PM 6   testimony; misstates the evidence; vague and ambiguous;

01:57PM 7   confusing; lacks foundation.

01:57PM 8   A   You know, I think there really is nothing to

01:57PM 9   Professor Kleck's objection both because I don't think it

01:57PM 10   makes sense on its own terms, but even if it were true, I

01:57PM 11   ran my analysis using the Brennan Center demographic

01:57PM 12   variables as well.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

FLANAGAN vs. BECERRA

DEPOSITION ERRATA SHEET

DEPOSITION OF JOHN J. DONOHUE, Volume II , August 8, 2017

I use the page numbers that continue the pagination from the first volume of my deposition (which pagination differs from the page count in the second volume). I begin with a list of page and line numbers where the transcript mis-spells my last name as "Donahue" (when it should be "Donohue"):

- Page 237, line 10

- Page 239, line 16

- Page 239, line 22

- Page 240, line 17

- Page 241, line 14

- Page 242, line 18

- Page 246, line 7

- Page 369, line 12

Also:

P. 242

Change:

09:45AM 9 I can't do it here because I'm not with the court

To:

09:45AM 9 I can't do it here because I'm here with the court

1

P. 270

Change:

10:58AM 21 introductions and appropriate set of explanatory variables

To:

10:58AM 21 introducing an appropriate set of explanatory variables

P. 271

Change:

11:00AM 9 adoption. About 11% of that remained after we controlled

To:

11:00AM 9 adoption. About half of that remained after we controlled

P. 274

Change:

11:07AM 4 was collected from between 2002 and 2014 only; correct?

To:

11:07AM 4 was collected from between 2000 and 2014 only; correct?

P. 288

Change:

11:35AM 4 determine based on the synthetic control's protocol that

To:

11:35AM 4 determine based on the synthetic controls protocol that

P. 290

2

Change:

11:39AM 6 So I remember when we were talking about panel

To:

11:39AM 6 So remember when we were talking about panel

P. 293

Change:

11:45AM 9 present right-to-carry trends for violent crime were not

To:

11:45AM 9 pre-right-to-carry trends for violent crime were not

and

Change:

11:45AM 18 present right-to-carry similarity that the -- that the

To:

11:45AM 18 pre-right-to-carry similarity that the -- that the

P. 294

Change:

11:48AM 23 is it -- how is it implicating your estimates based on how

To:

11:48AM 23 is it -- how is it influencing your estimates based on how

P. 298

Change:

11:54AM 21 they sort of mimic the growth and right-to-carry permits

3

To:

11:54AM 21 they sort of mimic the growth in right-to-carry permits

P. 301

Change:

11:59AM 11 professor at Harvard who was the initiatory of the

To:

11:59AM 11 professor at Harvard who was the initiator of the

P. 308

Change:

12:14PM 13 non-gun crime as more or greater than the stimulus to gun

To:

12:14PM 13 non-gun crime as much or more than the stimulus to gun

P. 313

Change:

12:24PM 17 said our model estimated over two -- 1999 to 2010 shows

To:

12:24PM 17 said our model estimated over 1999 to 2010 shows

and

Change:

12:24PM 23 held up as like the best of the right-to-carry papers, and

To:

4

12:24PM 23 held up as likely the best of the right-to-carry papers, and

P. 332

Change:

12:55PM 2 inattentive to NRA members as -- are much less tentative

To:

12:55PM 2 inattentive to NRA members as -- are much less attentive

P. 340

Change:

01:17PM 22 deposition suggested that synthetic controlled analysis is

To:

01:17PM 22 deposition suggested that synthetic controls analysis is

P. 351

Change:

01:34PM 16 this case, in the Flannigan case on June 1st, you've

To:

01:34PM 16 this case, in the Flanagan case on June 1st, you've

P. 352

Change:

01:36PM 20 laws were about to

5

To:

01:36PM 20 laws were adopted

P. 358

Change:

01:46PM 24 mechanism form compiling the data,

To:

01:46PM 24 mechanism for compiling the data,


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DECLARATION UNDER PENALTY OF PERJURY
 2    ASSIGNMENT NO. J0614175
 3    FLANAGAN vs CALIFORNIA ATTORNEY GENERAL XAVIER BECERRA
 4
 5
 6         I declare under penalty of perjury that I have read
 7    the entire transcript of my deposition taken in the
 8    captioned matter or the same has been read to me, and the
 9    same is true and accurate, save and except for changes
10    and/or corrections, if any, as indicated by me on the
11    DEPOSITION ERRATA SHEET hereof, with the understanding
12    that I offer these changes as if still under oath.
```

         Signed on the 24 day of August, 2017.

                    JOHN J. DONOHUE III