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 Firearms*

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 12 SACRAMENTO DIVISION  
 13

14  
 15 **WILLIAM WIESE, et al.,**  
 16 Plaintiffs,  
 17 v.  
 18 **ROB BONTA, et al.,**  
 19 Defendants.

Case No. 2:17-cv-00903-WBS-KJN

**DECLARATION OF RYAN BUSSE IN  
 SUPPORT OF DEFENDANTS'  
 OPPOSITION TO MOTION FOR  
 SUMMARY JUDGMENT AND COUNTER-  
 MOTION FOR SUMMARY JUDGMENT**

Date: July 10, 2023  
 Time: 1:30 p.m.  
 Courtroom: 5, 14<sup>th</sup> Floor  
 Judge: Hon. William B. Shubb

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**DECLARATION OF RYAN BUSSE**

I, Ryan Busse, declare under penalty of perjury the following is true and correct:

1. I have been asked by the Office of the Attorney General of the California Department of Justice to render an opinion on large capacity magazines, including whether they are necessary for a firearm to function, their use in self-defense, and how they became popular in today's culture. I am being compensated at a rate of \$150 per hour.

**BACKGROUND AND QUALIFICATIONS**

2. I was raised with firearms as an integral part of my life. I began shooting with various guns as a young boy and continued to regularly use and study guns throughout my life (I am now 53). After graduating college, I entered the firearms industry in 1992. I became a sales executive in the firearms industry in 1995, and I spent more than 25 years in this role. While in the industry, I developed innovative sales teams, maintained relationships with the largest national retailers, and was responsible for worldwide sales of millions of firearms. I built a dealer-direct sales network that included more than 2500 firearms dealers including locations in all 50 states, and I regularly visited these dealers. In my job, I also studied and built sales programs that relied on understanding the technical nature of most firearms available in the U.S. market, including AR platform guns and other types of rifles.

3. During my career, I played an integral role in building one of the largest firearms companies in the United States, Kimber, and I was nominated by shooting industry leadership many

1 times for the SHOT Business "Shooting Industry Person of the  
2 Year" Award. I served in an executive sales capacity as Vice  
3 President of Sales until August 2020. While in the industry I  
4 served as an advisor to the United States Senate Sportsmen's  
5 Caucus, and as the North American board chairman for Backcountry  
6 Hunters & Anglers, a national wildlife conservation and hunting  
7 organization.

8 4. I left the firearms industry because I was concerned  
9 about what I believed to be irresponsible and dangerous marketing  
10 and sales practices. Since I left, I have served as an advisor to  
11 the 2020 Biden presidential campaign, I have testified twice  
12 before the U.S. Congress about the firearms industry and gun  
13 policy (before the House Committee on Oversight and Reform and  
14 the Joint Economic Committee, respectively), I have been called  
15 to testify in closed-door briefings at the U.S. Senate, and I  
16 currently serve as a Senior Advisor to Giffords. I remain a proud  
17 and active gun owner, outdoorsman, and advocate for responsible  
18 gun ownership.

19 5. I have provided expert witness testimony in Miller v.  
20 Bonta, No. 3:19-cv-01536-BEN-JLB (S.D. Cal.), and Duncan v.  
21 Bonta, No. 3:17-cv-1017-BEN-JLB (S.D. Cal.); Oregon Firearms  
22 Federation Inc. v. State of Oregon, (Case No. 2:22-cv-01815-IM);  
23 National Association for Gun Rights v. City of Highland Park,  
24 Illinois, Case No. 1:22-cv-04774 (N.D. Ill.); Herrera v. Raoul,  
25 No. 23-cv-00532 (N.D. Ill.).

26 **SUMMARY OF OPINIONS**

27 6. In the following pages I will explain the reality of  
28 important technical issues in this case. I also provide

1 historical timelines which explain the ways in which large  
2 capacity magazines (LCMs) have been developed and marketed by the  
3 firearms industry and I also provide my opinion on self defense  
4 as it relates to LCMs. Throughout this document, there are many  
5 instances where I offer the published opinions of the firearms  
6 industry in addition to my own opinions. Hence, there are many  
7 footnoted references and images to follow and all are from  
8 trusted and verified firearms industry authorities.

9 **OPINIONS**

10 7. I have reviewed the California law which regulates the  
11 sale of large capacity magazines, and I am familiar with the  
12 function and marketing history of these magazines. With regards  
13 to opinions I offer below pertaining to large capacity magazines,  
14 I also pay attention to AR-15 platform firearms because firearms  
15 based on this particular platform are now by far the most  
16 prevalent assault weapons in the United States and the history of  
17 all large capacity magazines is closely intertwined with these  
18 guns and the companies that sell them.

19 8. Semiautomatic rifles, including AR and AK-platform  
20 rifles, as well as semiautomatic pistols and shotguns, are  
21 capable of firing one shot per each pull of the trigger. Each  
22 firearm is chambered for specific ammunition cartridges.  
23 Centerfire firearms are chambered for specific centerfire  
24 cartridges, which have the primer (the component that ignites the  
25 propellant) located in the center of the base of the cartridge  
26 case (as opposed to the rim of the cartridge). Today's modern  
27 rimfire ammunition is almost always confined to small and less  
28 powerful cartridges, such as the .22LR. Bullets fired from these

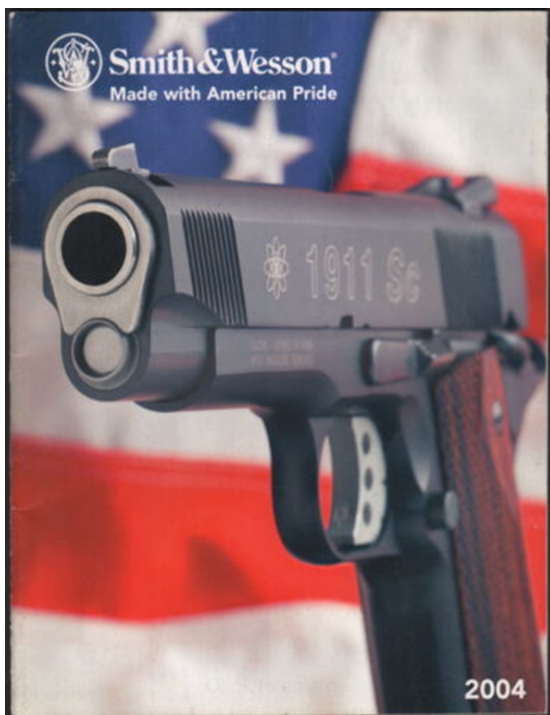
1 cartridges are small and light and move slower than almost all  
2 centerfire rifle ammunition. Rimfire chamberings are common in  
3 youth and "beginner" hunting rifles because they are relatively  
4 quiet and inexpensive and have low recoil. Conversely, modern  
5 centerfire ammunition requires a detonation of a primer in the  
6 center of the cartridge (CENTERfire) and these cartridges are  
7 generally much more powerful than rimfire cartridges. As an  
8 example, the .223, which is the most common AR-15 cartridge,  
9 fires bullets at more than 3000 feet/second, whereas a rimfire  
10 cartridge typically propels bullets at around 1100 feet/second.  
11 This increased centerfire velocity greatly increases the range  
12 and lethality of centerfire cartridges. Most handgun cartridges  
13 are also now centerfire, and these cartridges generally fire  
14 bullets much larger than rimfire cartridges, usually at  
15 velocities of between 800 and 1500 feet/second. Generally,  
16 centerfire weapons fire higher-caliber ammunition and/or fire it  
17 at higher velocities.

18 9. The AR-platform, in particular, is the civilian version  
19 of the military's select-fire M-16 and M-4 rifles, which are  
20 capable of fully automatic or burst firing. Based on my  
21 familiarity with the firearms industry, AR-platform rifles and  
22 similar semiautomatic rifles did not begin to sell in significant  
23 numbers until the late 2000s and, particularly, not until after  
24 the 2012 shooting at Sandy Hook Elementary in Newtown,  
25 Connecticut.

26 10. During the mid-2000s, and especially after Sandy Hook,  
27 the firearms industry shifted towards marketing efforts  
28 specifically focused on developing the "tactical market." In the

1 industry, the term "tactical" generally refers to weapons and  
2 accessories that are meant for offensive military or law  
3 enforcement operations. This market now generally includes AR-  
4 15s, battle pistols and other handguns from various manufacturers  
5 and accessories such as bullet-proof vests and a wide variety of  
6 large capacity magazines.

7 11. Here are two images that illustrate the dramatic  
8 transition in the gun industry from the time when tactical guns  
9 were not accepted or normalized to the current when they are a  
10 central business focus. The first is an image of the 2004 Smith  
11 and Wesson annual product catalog cover in which a 1911 pistol  
12 with an 8-round capacity is featured, the second is the 2019  
13 Smith and Wesson catalog cover on which the Smith and Wesson  
14 M&P15 pistol and rifle (with LCM) are featured prominently.  
15 Neither of those "tactical" firearms from the 2019 catalog cover  
16 existed in 2004:



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12. While there were pistols with LCMs sold and marketed prior to the mid-2000s, they were far less common and certainly not highlighted as a central focus for gun industry growth prior to 2008. The increased prevalence of these “battle pistols” and other similar LCM-capable handguns is closely tied to the rise of the AR-15 and the associated shift to tactical or “offensive” (as opposed to “defensive”) firearms.

Detachable Magazines, Large Capacity Magazines, Large Capacity Ammunition Feeding Devices.

13. Magazines are containers which hold ammunition in spring-loaded preparation for feeding into the receiver of a firearm. By contrast, clips, while sometimes confused with magazines, are different and can generally be described as small holding devices that retain cartridges in preparation for faster loading into magazines. Magazines can either be “fixed,” meaning they are integral within the gun, or “detachable,” meaning they

1 are not internally or permanently attached to the firearm. Many  
2 firearms, including some of the most revered self-defense  
3 firearms ever built, incorporate fixed magazines which means that  
4 these containers are permanently affixed to, or inside the  
5 firearm. Magazines of this sort can be temporarily or permanently  
6 "plugged" or shortened to regulate capacity. Examples include  
7 most pump and semiautomatic shotguns where a tubular magazine is  
8 affixed under the barrel. Many bolt-action hunting rifles utilize  
9 a fixed "box magazine" design in which ammunition must be loaded  
10 into the permanent "box" below the bolt, and then fed into the  
11 receiver from that magazine with each cycle of the bolt. For  
12 "fixed magazine" firearms, in order to reload, the shooter must  
13 stop shooting and reload the magazine one cartridge at a time  
14 before resuming shooting.

15 14. Conversely, detachable magazines enable a shooter to  
16 replace an empty or depleted magazine with a fresh magazine to  
17 resume firing in a manner that is much faster than stopping to  
18 reload fixed magazines. Unlike fixed magazines, detachable  
19 magazines can be preloaded and transported at the ready with the  
20 gun, effectively greatly increasing the potential number of  
21 rounds fired in any given period of time. For example, a  
22 competent shooter with a common fixed-magazine bolt-action rifle  
23 may be able to accurately fire 15-20 rounds per minute with long  
24 pauses to reload whereas a competent shooter with an AR-15 and  
25 preloaded large capacity magazines can accurately fire more than  
26 100 rounds per minute with very short pauses to change magazines.  
27 This also generally applies to handguns.



1 15. Pistol shooters with large capacity magazines can fire  
2 more rounds per minute than the same shooter with lower capacity  
3 magazines and many more rounds than shooters of more traditional  
4 self-defense handguns such as revolvers. Handguns with high  
5 capacity magazines have often been used in notable mass shooting  
6 events such as the 2011 Tucson, Arizona, shooting involving  
7 Congresswoman Gabby Giffords and the mass shooting at Virginia  
8 Tech University in 2007 in which 33 people were killed and 23  
9 more were injured.

10 16. Detachable magazines typically hold as few as 5 or as  
11 many as 100 or more ammunition rounds but will also function with  
12 a single round. It is my experience that magazines which limit  
13 capacity to as few as 5 rounds are commonly available and are  
14 often legally mandated for hunting in many states. It is also my  
15 experience that even if large capacity magazines are available or  
16 sold with firearms today, all firearms companies offer lower  
17 capacity options (often 10 round versions to comply with laws in  
18 various states).

19 17. There is no difficulty in obtaining lower capacity or  
20 standard capacity magazines for virtually any firearm. These are  
21 often sold by manufacturers and retailers and online sellers, and  
22 have been for many years, as normal accessories. Some retailers  
23 now also offer these magazines in retail categories they refer to  
24 as "compliant magazines." This is a marketing description of one  
25 such retail magazine section from noted industry reseller  
26 Righttobear.com and is typical of others in the firearms  
27 industry: "Residents of a number of states are forbidden by law  
28 to have large-capacity ammunition magazines that hold more than

1 10 rounds, in some cases even 7 rounds. We carry a full inventory  
2 of magazines designed to meet some state restrictions. Each of  
3 the AR 10-round magazines we sell meet or exceed our high  
4 standards for any product we sell. All are based on proven  
5 designs, with the simple restriction of only holding 10 rounds.  
6 If you are in the market for a 10-round AR magazine, check out  
7 the selection we offer here. You will find magazines from several  
8 manufacturers, designed to fit a number of ammo calibers. These  
9 AR 10-round magazines allow you to customize your rifle while  
10 helping to meet some state restrictions. You can get 10-round  
11 mags that won't interfere with the other accessories on your  
12 rifle. Find the right 10-round AR mag for your needs, and get it  
13 on order today!"

14 18. Despite the recent proliferation of large capacity  
15 magazines, it is important to note that there is no known firearm  
16 that requires a large-capacity magazine to function as designed.  
17 By this I mean that all firearms that can accept a large-capacity  
18 magazine can also accept a magazine that holds fewer rounds and  
19 still function precisely as intended. This is true even of AR and  
20 AK-platform rifles. Although many of these rifles are sold with a  
21 30 round magazine, the manufacturers all offer the optional  
22 purchase of 10 round or even lower capacity magazines and could  
23 easily offer magazines limited to almost any given round count.  
24 There are multiple respected reviews of compliant magazines that  
25 not only highlight their known reliability but also point out  
26 important advantages of smaller magazines to many shooters. For  
27 example, the description of a magazine by the popular PewPew  
28 Tactical website describes one of the most popular 10 round AR-15

1 magazines as follows: "The 10-Round PMAG M3 is an option that  
2 won't let you down! But the dedicated lower-capacity magazines  
3 are also nice because they are shorter – this makes prone or  
4 bench shooting easier for most people."

5 19. There are many pistols that are built for magazines of  
6 eight rounds or less. One such example is the very popular Model  
7 1911—which was the accepted defensive sidearm of the U.S.  
8 Military for decades and is still one of the most widely owned  
9 self-defense guns in the United States. Other widely popular guns  
10 such as the Sig P938 are also designed to function with seven or  
11 eight round magazines and these guns have been widely acclaimed  
12 by dozens of notable firearms industry experts as among the most  
13 effective concealed carry/self-defense firearms on the market.  
14 While larger 10-plus round magazines exist for these pistols, a  
15 smaller magazine (standard seven or eight round) is considered  
16 preferable by almost all consumers because the physical  
17 size/profile of the shorter magazine is easier to carry, shoot,  
18 and conceal.

19 20. Still today, guns such as the 1911 and Sig938 are built  
20 to function with sub-10 round magazines. With regards to the 1911  
21 design, it is so respected that direct copies are currently  
22 reproduced by many gun companies (Smith and Wesson, Ruger,  
23 Kimber, Springfield, Rock Island, Dan Wesson, and many other  
24 companies build and sell these 1911 pistols) and they are sold in  
25 high volumes by most retailers in the United States. These guns  
26 are still considered extremely effective self-defense firearms by  
27 many of the leading firearms trainers in the country.  
28

1           21. For AR-15s and handguns, even where magazines with  
2 capacities of more than 10 rounds are prevalent, the industry  
3 always offers 10-round or "compliant" magazines as an option. I  
4 am not aware of a single case where those magazines have been  
5 advertised as inadequate or ineffective, and I am not aware of  
6 any other expert or industry advertisement that claims these  
7 magazines render a gun defective or unable to function in self-  
8 defense situations.

9           22. While there is a competitive trend towards increased  
10 handgun capacity, there are also many recently introduced handgun  
11 models that utilize or offer 10 round magazines and are also  
12 considered excellent self-defense options by notable industry  
13 experts and journalists. The following is a review for a 10-round  
14 version of one of the best-selling handguns in the industry  
15 offered by notable industry website TheArmoryLife.com: "10 rounds  
16 of 9mm in a micro-compact is still a formidable defense.  
17 Springfield Armory recently announced the addition of a 10-round  
18 version of the Hellcat pistol for shooters in states that require  
19 restricted magazine capacities. The new 10-round variant of the  
20 Hellcat offers a great self-defense option for owners that live  
21 in areas with these restrictions."

22           23. Revolvers, which have 5 or 6 round capacities, are also  
23 considered to be extremely effective self-defense guns. Even the  
24 most respected industry experts openly agree on this point and  
25 many also point out that the average self-defense situation  
26 involves very few shots fired and it is generally accepted that  
27 the average self-defense situation involves only 2.2 shots.  
28 Related to that truth, the following is an excerpt from a 2015

1 NRA American Rifleman article on the desirability of revolvers  
2 for self-defense and the issue of capacity in defensive  
3 situations: "The importance of this difference in ammunition  
4 capacity is debatable. Some self-defense gurus support the idea  
5 that more is better. Others point out that most civilian  
6 situations happen so quickly, with only a few rounds fired (an  
7 average of three), that handgun capacity is a moot point."

8 24. Finally, it is important to note that shotguns are not  
9 immune from this general trend of becoming marketed as more  
10 tactical because like handguns, the prevalence of LCMs in AR-15s  
11 has provided license for similar changes in shotguns. Generally  
12 speaking, pump action and semi-automatic shotguns utilize a  
13 tubular magazine. However there are now dozens of "tactical"  
14 shotgun designs that accept detachable magazines similar to AR-15  
15 designs and some are large capacity. There are also some shotguns  
16 that are generally designed to be similar to the AR-15 but  
17 chambered in a shotgun cartridge (usually 12 gauge).

18 Magazines Are Accessories

19 25. Because a large capacity magazine is not a required  
20 component for a firearm to operate, it is characterized as an  
21 accessory by the industry. There is a massive market for  
22 magazines that far surpasses that of the market for firearms  
23 themselves in terms of numeric sales. There are companies, such  
24 as Magpul, that entirely specialize in firearms accessories,  
25 including large capacity magazines. In fact, most firearms  
26 manufacturers do not consider the magazine as integral enough to  
27 build their own magazines for their own guns. In almost all cases  
28 even the largest gun manufacturers contract with accessory makers

1 who build magazines and then supply them to the gun manufacturer,  
2 who then sells the magazines with the guns but also as an "add-  
3 on" accessory.

4 26. Based on my experience, magazines are a large accessory  
5 profit center for the gun industry and sales of these magazines  
6 are treated as a category separate from gun sales throughout the  
7 sales chain. For example, I am aware of compensation programs  
8 from gun manufacturers that offer increased percentage in sales  
9 commission payments for sales of magazines as opposed to  
10 firearms. Retailers often incentivize their employees to push a  
11 buyer to purchase additional magazines because it is known that  
12 consumers view the purchase of magazines as separate from the gun  
13 and they are therefore viewed as "add-on sales" for retailers.  
14 Many retailers like Palmetto State Armory (one of the largest  
15 firearms retailers in the United States) focus on accessory sales  
16 along with firearms and clearly list magazines in their "general  
17 accessory" section.

18 27. Almost always, these magazines are manufactured by  
19 outside contracted suppliers (not the manufacturer of the  
20 firearm). The degree to which a magazine is viewed as an  
21 accessory by firearms retailers is reinforced by the fact that  
22 when manufacturers add additional magazines to the gun at time of  
23 sale as an incentive to encourage consumers to purchase the gun,  
24 the practice often upsets the retailers who view this as taking  
25 away an accessory sale they could have made. Below are two recent  
26 promotions from firearms manufacturers which advertise magazines  
27 as sales incentives. Note that the second also offers 10-round  
28 magazine options:

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**MARCH MAG-NESS**

Two Free Magazines  
**With the Purchase of a Full Size VP9**

**NEW** KIMBER DAILY CARRY PACKAGE

R7 MAKO

HIGH-CAP & 10RD COMPLAINT PACKAGES AVAILABLE

**5 TOTAL MAGS, HOLSTER & RANGE BAG INCLUDED**

History and Marketing of Tactical Firearms, Assault Weapons and their Accompanying Large Capacity Magazines

28. While there is no universally accepted definition of an assault rifle, the term generally refers to a firearm that

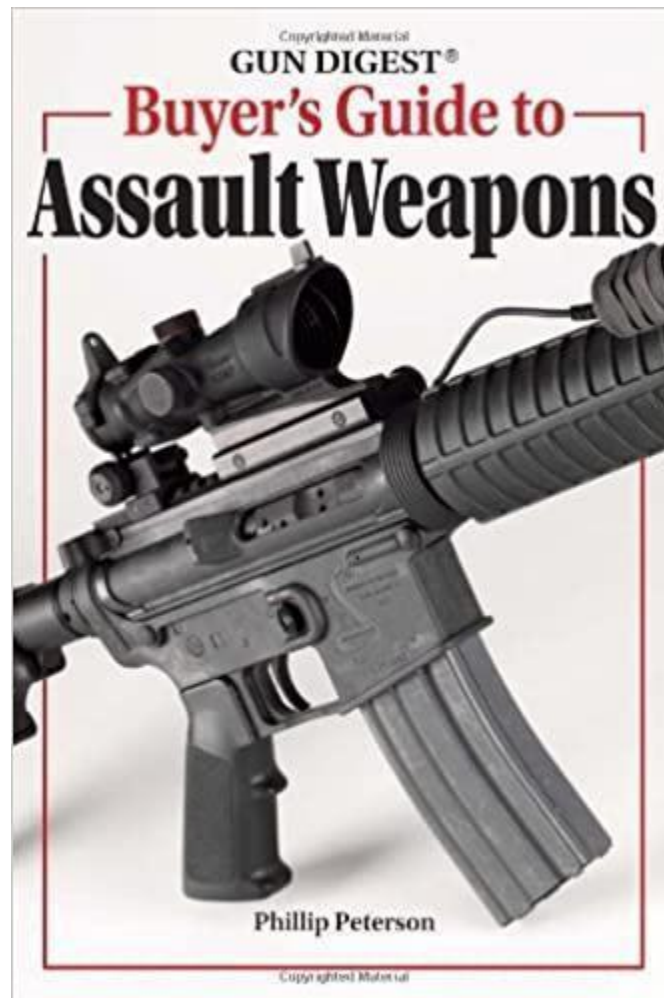
1 incorporates a set of physical features that increase the  
2 effectiveness of killing enemy combatants in offensive  
3 battlefield situations, usually in close and medium-range  
4 warfare. This list of features generally includes but is not  
5 limited to: pistol grips, semi-automatic or fully-automatic fire  
6 control systems, the ability to accept detachable magazines,  
7 folding or telescoping stocks, and barrel shrouds. The recent  
8 history and marketing of large capacity magazines has become  
9 indelibly intertwined with that of assault weapons. For example,  
10 when looking at the silhouette of an assault weapon the large  
11 capacity magazine is often prominently visible, especially on  
12 images utilized by extremists groups.

13 29. Additionally there will be clearly visible images of  
14 prominent large capacity magazines in all the advertisements that  
15 follow. Industry spokespeople may claim that these assault  
16 weapons and LCMs are only tools of self-defense. They may also  
17 claim that these items have a long and "common" history in the  
18 United States. In my opinion these are false assertions created  
19 to rationalize the recent increased sales and marketing of  
20 assault weapons and LCMs. I therefore believe it important to  
21 include here a brief history of the assault weapon, tactical  
22 firearms and industry advertising to help the Court understand  
23 the truth about large capacity magazines and the actual source of  
24 their prominence in current day gun culture.

25 30. All AR-15 firearms are derivatives of the Armalite  
26 Rifle (AR) model 15, which was originally designed for the United  
27 States Military in the late 1950s. The AR-15 was specifically  
28 designed to satisfy clearly stated military requirements for an



1 assault rifle. The AR-15 incorporated features that achieved  
2 these requirements, which included: being lightweight, easily  
3 portable, accurate, high-capacity-capable, low recoil, and fast-  
4 firing as these are the features of an effective offensive  
5 weapon. The AR-15 was therefore adopted by the U.S. military in  
6 the early 1960s. The firearms industry openly referred to these  
7 and all similar weapons as "assault weapons" and "assault rifles"  
8 as late as 2008, as evidenced by this 2008 issue of Gun Digest, a  
9 publication which is commonly accepted in the industry as a  
10 prominent authority and advertising venue:



1           31. Of particular importance for this case, it is critical  
2 to understand the "chambering" or cartridge the AR-15 and AK-47  
3 rifles are designed to accept. The standard cartridge for the AR-  
4 15 is a .223Rem (5.56 is NATO equivalent) which was selected by  
5 the military for very specific reasons. While it is commonly  
6 reported that the AR-15 is a "high power" weapon, a singular .223  
7 cartridge is not in fact "high power" compared to almost all  
8 other hunting rifles that have been sold for more than a century  
9 in the United States. However, it was the small size of the .223  
10 and 5.56 cartridge that was particularly important to the  
11 military because it allowed soldiers to greatly increase capacity  
12 in their rifles and magazines. Moreover, smaller rounds weigh  
13 less, meaning that this also increased the number of extra rounds  
14 soldiers could carry around. In other words, it is the large  
15 capacity that the military saw as most important for offensive  
16 military operations and it is the large capacity that, in the  
17 opinion of military decision makers, made the guns ideal  
18 offensive battle rifles.

19           32. The bullets from these smaller and faster cartridges  
20 are very deadly at short and medium ranges. These cartridge  
21 characteristics were selected because they result in a rifle that  
22 can be high-capacity, accept loaded magazines which are easy to  
23 transport, and can also be very easy to fire repeatedly while  
24 staying on target. The reasoning for the military decision on  
25 this chambering is summed up in this article from Business  
26 Insider: "The smaller rounds weighed less, allowing troops to  
27 carry more ammunition into the fight. They also created less  
28 recoil, making it easier to level the weapon back onto the target

1 between rounds and making automatic fire easier to manage. Tests  
2 showed that troops equipped with smaller 5.56 mm rounds could  
3 engage targets more efficiently and effectively than those firing  
4 larger, heavier bullets." This is why AR-15 and AK-47 platform  
5 weapons remain the assault weapon of choice for military  
6 operations in short and medium range scenarios where repeated,  
7 high volume and accurate offensive shooting is desired.

8 33. These same general attributes, especially the ability  
9 to accept large capacity magazines, are those which appear to be  
10 desired by many recent mass shooters in the United States. LCMs  
11 were used in the recent shootings in Buffalo, New York; Highland  
12 Park, Illinois; Uvalde, Texas; Nashville, Tennessee; and in  
13 Louisville, Kentucky just to name a few. In Uvalde, the shooter  
14 used high-capacity magazines to easily transport nearly 1700  
15 rounds of ammunition to Robb Elementary school. According to law  
16 enforcement officials quoted in a CBS article: "[T]he amount of  
17 ammunition that the suspect brought with him is more than what an  
18 average U.S. soldier would go into basic combat with, apparently  
19 planning on a massive gun battle."

20 34. While the AR-15 and its derivatives are by far the most  
21 common assault-style rifles in the United States, there are many  
22 other firearms that share the same purpose and generally have the  
23 same defining features, including the ability to accept large  
24 capacity magazines. Those firearms include firearms utilizing all  
25 or part of the AK-47 platform as well as many others. The  
26 original patent for the gas operating system central to the AR-15  
27 being rapidly fired with minimal recoil expired in 1977, which  
28

1 subsequently allowed the engineering prints for the AR-15 to be  
2 publicly available to all firearms companies.

3 35. From that point forward, in 1977, there could have been  
4 a large-scale, immediate, and legal proliferation of direct  
5 copies of these rifles and other high capacity semi-automatic  
6 guns into the United States commercial market. But that did not  
7 happen, at least not until nearly two decades later. In fact,  
8 when I first started my work in the gun industry in the 1990s,  
9 assault weapons such as AR-15s and the 30-round magazines we see  
10 in advertising and mass shootings today, were not common, and  
11 within the gun industry the acceptance or promotion of this  
12 product category was thought to be irresponsible and potentially  
13 dangerous.

14 36. This former self-imposed industry "regulation" was  
15 publicly voiced by William B. Ruger, the widely revered founder  
16 of Sturm Ruger, which is now one of the largest companies in the  
17 industry. During an interview with Tom Brokaw, he stated what was  
18 common industry consensus: "No honest man needs more than 10  
19 rounds in any gun." Mr. Ruger went on to clarify what most  
20 industry executives believed to be wise policy: "I never meant  
21 for simple civilians to have my 20 or 30 round magazines." For  
22 decades, opinions like that of William Ruger were reinforced  
23 throughout the industry in hundreds of large and small ways and  
24 this sentiment was still very prevalent when I entered the  
25 industry in 1995. Almost everyone I encountered believed that  
26 AR-15s were military assault weapons and the large capacity  
27 magazines which often accompanied these weapons were dangerous  
28 and were not to be sold or displayed to the civilians.

1 37. This commonly held opinion presented a challenge for  
 2 Colt, which at that time was the only notable company focused on  
 3 selling AR-15s to civilians. Colt realized that AR-15s were  
 4 obviously a military weapon but the company also sought to sell  
 5 the guns to civilians. The quandary for the company is fully  
 6 displayed in the images below. First, see the advertisement below  
 7 in their 1964 catalog in which Colt seeks to delicately market  
 8 the AR-15 as a sporter rifle (note the non-LCM magazine  
 9 included):

**COLT AR-15 SPORTER Semi-Automatic Rifle**  
 223 Caliber Barrel 21"  
 Lightweight. Extremely accurate. Easy to handle. Straight line construction.  
 Rapid semi-automatic fire is more controllable than with rifles of commercial design. Simple to maintain.  
**\$189.50**

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**THE COLT AR-15 SPORTER SCOPE**  
 Hard Black Anodized Surfaces... Matte Finish, resists rust, Scratchproof...  
 Eleven fully coated lenses for maximum light transmission... Nitrogen filled...  
 Special "V" type mounts permit rapid manual removal and rigid manual  
 remounting... no tools required... Turret range knob provides quick adjustment  
 from 200 to 500 yards... Self-centering cross-hair reticle... Multi-  
 threaded eyepiece for rapid focusing... No loss of use of iron sights with  
 scope attached.  
**\$74.95 including mount.** 3X

---

**COLTSMAN JUNIOR TELESCOPE 4X, 6X**  
 Combines excellent field of view with clear definition and  
 absence of aberrations to bring you a scope second to none  
 in its price class. The carefully ground lenses are the product  
 of painstaking labor on the part of skilled opticians. The rugged  
 scope tube and mounting clamps are designed to take real  
 use on the firing line.  
 The Coltmaster Junior Telescope (either 4x or 6x) is designed  
 for use on the Colteer 1-22 or any other .22 rifle with a dove-  
 tailed cut on top of the receiver.  
 4X \$ 9.75  
 6X \$12.50

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**TYPE "A" ENGRAVING . . .**  
 Provides coverage of approximately one third of  
 the barrel, portions of the cylinder and partial  
 coverage of the frame, backstrap and trigger  
 guard.  
**\$150.00**

**TYPE "C" ENGRAVING . . .**  
 The most complete coverage of the three types  
 of Colt engraving: Frame, cylinder, and back-  
 strap, and most of the trigger guard and barrel  
 are profusely engraved.  
**\$300.00**

**TYPE "B" ENGRAVING . . .**  
 Provides coverage of approximately two thirds  
 of the barrel, portions of the cylinder and partial  
 coverage of the frame, backstrap and trigger  
 guard.  
**\$225.00**

**CUSTOM ENGRAVING . . .**  
 Custom engraving is often desired when a Colt  
 handgun is to be used for presentation pur-  
 poses or as a special match prize. Any special  
 design can be furnished, such as State or  
 National seals, scenes of hunting or other  
 occasions, gold or silver inlay or plating,  
 enameled initials, emblems, etc. Submit special  
 specifications to Colt's Arm Sales Depart-  
 ment. A request for an estimate will be given  
 prompt attention.

**Colt Industries**  
 Colt's Firearms Division  
 Hartford, Connecticut, U.S.A. 06102

CP100 PRINTED IN U.S.A. All prices subject to change without notice.

1 38. This marketing met with very disappointing results. In  
2 response to very low commercial sales, Colt released new models  
3 which hinted at the military or "Government" use for the rifles.  
4 According to the 1987 company press release, these rifles "Had  
5 all of the features consistent with the M16" and were  
6 "manufactured on the same production line as the M16." But even  
7 in that increasingly militaristic 1987 marketing, the rifles were  
8 still not sold or marketed with an LCM and I am unaware of any  
9 claim that asserted LCMs were necessary to the function of these  
10 rifles or to self defense.

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**NEW FROM COLT FIREARMS**  
A Heritage of Fine Craftsmanship

**FOR IMMEDIATE RELEASE:**

**Colt® Introduces The AR-15® A2 Gov't. Model Rifle and Carbine**

The new Colt AR-15A2 Gov't. Model 223 semi-automatic rifle and Gov't. Carbine incorporate state of the art improvements found in the M16 series.

These latest additions to Colt's offering of utility rifles and carbines for sportsmen have the military type upper receiver used in the M16A2 rifle manufactured by Colt for the United States Marine Corps and Army.

These new guns replace the AR-15A2 Sporter II rifle and AR-15A2 carbine. The most significant difference between the new guns and the Sporter rifle and carbine is the rear sighting system which is housed in the receiver's carrying handle. It has dual apertures which are adjustable for both windage and elevation out to 800 meters. A square front sight post is adjustable for zeroing. There is also provision in the handle for the attachment of the optional Colt telescopic sight.

All of the guns in the AR-15A2 series have features consistent with the M16A2. Time tested gas operated mechanism, firing from a closed bolt position • Forward bolt assist • Rifling twist of 1 turn in 7" • Handguard, buttstock and pistol grip are made from new, more impact resistant materials • Handguard is round, has improved heat deflector and is ribbed for greater grip control • Cartridge case deflector for left handed shooters on all models.

The AR-15s are manufactured in the same factory and on the same production line as the world famous M16. The Colt M16 family is the most battle proven combat rifle in the free world.

**New Colt AR-15A2 Gov't. Model Rifle**

**New Colt AR-15A2 Gov't. Carbine**

Both models have target style sights adjustable for windage and elevation out to 800 meters.

1           39. These examples from Colt are illustrative of how  
2 important marketing and the inclusion of LCMS would become.  
3 Colt's sales were famously low, as were the sales from a handful  
4 of other companies who sought to sell AR-15s. That is because  
5 "mainstreaming" of those guns was strongly resisted by most  
6 leaders in the gun industry well into the mid 2000s. The  
7 voluntary prohibition obviously extended to LCMS as Colt's  
8 product listings did not include or picture them. The industry  
9 prohibition had a dramatic effect and the evidence is born out in  
10 the low commercial sales figures of AR-15s almost none of which  
11 were equipped with LCMS.

12           40. During the period between 1964 and 1994, first for  
13 Colt, and then also for all companies who produced the guns after  
14 Colt's patent sunset, commercial AR-15 sales averaged fewer than  
15 27,000 units per year for a total of about 787,000 units in the  
16 30-year period 1964-1994. As an example of the rarity of assault  
17 weapons in the firearms industry during those years, consider  
18 that in 1990, there were about 4.4 million guns sold in the  
19 United States (total reported U.S. production + total imports -  
20 total exports). According to the NSSF, 74,000 of those were  
21 assault weapons, which means that assault weapons were only 1.6%  
22 of 1990 domestic gun sales.

23           41. During the 10-year period of the federal assault  
24 weapons ban (1994-2004), AR-15s were legal to produce and sell as  
25 long as they did not incorporate LCMS or combine additional  
26 features as enumerated in that legislation. In many ways, the ban  
27 simply reinforced the same voluntary restrictions that the  
28 industry had been mostly imposing on itself.

1           42. Importantly for this case, virtually all pistols were  
2 also legal to sell during that federal ban, including Glock  
3 pistols, which were the most notable “high-capacity” handguns of  
4 that time. While there were far fewer high-capacity handgun  
5 models then, they did exist. As proof that LCMS are not  
6 necessary, Glock and other manufacturers who produced “LCM  
7 compatible” handguns between 1994 and 2004 did not cease selling  
8 the guns after the ban. Nor did they claim the newly included  
9 “compliant capacity” handguns were defective. Rather they simply  
10 offered their guns with compliant 10 round magazines. This same  
11 simple shift happened across the board for all firearms that had  
12 previously been sold with LCMS and it still happens today for  
13 handguns and AR-15 rifles.

14           43. During the 1994–2004 federal “ban,” assault weapons,  
15 especially the AR-15 variants, became a symbolic image of  
16 resistance for the gun industry. By 2004, I observed a few small  
17 industry members who were gearing up to use the battle over LCMS  
18 and AR-15s as a marketing tool to sell firearms.

19           44. But even after the federal legislation expired, the gun  
20 industry did not immediately begin producing or selling these  
21 guns in large numbers. That is because there was a continued  
22 general agreement by vast majority of industry leaders that these  
23 guns, which were very clearly designed for military-style,  
24 offensive (i.e., attacking) use, and related gun paraphernalia—  
25 including virtually all large capacity magazines, which were  
26 generally also considered to be for military-style, offensive  
27 use—would not be displayed at trade shows or used at industry-  
28 sponsored shooting events.



1           45. This is why until well into the mid 2000s, the industry  
2 would not allow any company to display any "tactical" gear in the  
3 main section of the largest industry trade shows like S.H.O.T.  
4 (the Shooting Hunting Outdoor Trade show which is governed by  
5 NSSF). It was, and still is, common understanding in the industry  
6 that "tactical" denoted "planned military or police action." At  
7 that time, in order to enter the special Military and Law  
8 Enforcement section of the S.H.O.T show, where this tactical gear  
9 was displayed, an attendee was required to present verified  
10 military or law enforcement identification credentials. These  
11 rules were enforced by the industry because it was universally  
12 accepted that firearms designed for tactical or "assault"  
13 purposes deserved this special regulation or voluntary  
14 responsibility.

15           46. This formerly understood voluntary prohibition also  
16 extended to the many gun stores and all of the largest sporting  
17 goods retailers in the country. Almost none of which would sell  
18 or display assault weapons or AR-15s or AK-47s in their stores  
19 until the mid-2000s. This remained true as late as 2006. It was  
20 not until very recently that the gun industry began to push AR-  
21 15s, LCMs, and other assault-style guns, leading to the more  
22 prominent marketing we see today. The following table of data  
23 compiled by the National Shooting Sports Foundation (NSSF), the  
24 firearms industry trade group, clearly illustrates that sales of  
25 such guns (MSR, AR-15 and AK-47) have increased dramatically. In  
26 2020, assault weapons comprised 12.2% of total gun sales, seven  
27 times higher than the 1990 percentage. In numeric terms sales  
28 have increased by nearly 4000% from 1990 until now, despite the

1 fact that no federal, and few state restrictions on such guns  
 2 existed in 1990. (74,000 units in 1990 versus 2,798,000 in 2020):

### Estimated Modern Sporting Rifles in the United States 1990 – 2020

Year	US Production less exports of MSR/AR platform	US Import less exports of MSR/AR, AK platform	ANNUAL TOTAL
1990	43,000	31,000	74,000
1991	46,000	69,000	115,000
1992	33,000	72,000	105,000
1993	62,000	226,000	288,000
1994	103,000	171,000	274,000
1995	54,000	77,000	131,000
1996	27,000	43,000	70,000
1997	44,000	81,000	125,000
1998	70,000	75,000	145,000
1999	113,000	119,000	232,000
2000	86,000	130,000	216,000
2001	60,000	119,000	179,000
2002	97,000	145,000	242,000
2003	118,000	262,000	380,000
2004	107,000	207,000	314,000
2005	141,000	170,000	311,000
2006	196,000	202,000	398,000
2007	269,000	229,000	498,000
2008	444,000	189,000	633,000
2009	692,000	314,000	1,006,000
2010	444,000	140,000	584,000
2011	653,000	163,000	816,000
2012	1,308,000	322,000	1,630,000
2013	1,882,000	393,000	2,275,000
2014	950,000	237,000	1,187,000
2015	1,360,000	245,000	1,605,000
2016	2,217,000	230,000	2,447,000
2017	1,406,000	158,000	1,564,000
2018	1,731,000	225,000	1,956,000
2019	1,679,000	169,000	1,848,000
2020	2,466,000	332,000	2,798,000
<b>TOTALS</b>	<b>18,901,000</b>	<b>5,545,000</b>	<b>24,446,000</b>

Source: ATF AFMER, US ITC, Industry estimates

25 47. It is my experience that this proliferation is the  
 26 result of a direct and purposeful industry marketing effort to  
 27 assert that these guns are "common." In 2009, as part of this  
 28 effort, the firearms industry through the NSSF, facilitated a

1 public re-branding of assault rifles in an effort to make them  
2 more socially acceptable. As such, the NSSF broadly encouraged an  
3 industry-wide effort to rename such guns "Modern Sporting Rifles"  
4 or MSRs. This is not unlike the effort of Colt to market a  
5 "Sporting rifle" in previous decades, but unlike the failed  
6 marketing of Colt in the 1980s, beginning in the late 2000s the  
7 guns themselves were increasingly sold with LCMs and steadily  
8 "improved" in many functional areas that increase the lethality  
9 of a military assault rifle.

10 48. It should be noted that in many states, the capacity of  
11 a "sporting rifle" or a rifle that is legal to use for hunting,  
12 is regulated to only a few rounds (usually 5 or less). Hence it  
13 is notable that the industry chose to utilize "sporting" for the  
14 branding of these rifles when the term often is attached to  
15 specific capacity limitations.

16 49. At the same time the NSSF was softening the image of  
17 these weapons with the MSR campaign, many individual assault  
18 rifle companies began to market the guns in ways that dispensed  
19 with any contrived attempt to pretend the guns were "sporting"  
20 firearms. Despite the fact that the rifles and LCMs were not  
21 sporting guns, all industry members, including me, were strongly  
22 encouraged to stop using the term "assault rifle" or even  
23 "tactical weapon" because those terms were thought a too-  
24 transparent label that referenced offensive military assaults  
25 which would therefore harm the public perception of such guns and  
26 decrease the sales of companies that build them.

27 50. The terms "Assault Rifle" and "Assault Weapon" were  
28 first used to describe the German WW2 "Sturmgewehr"-44 rifle,

1 which roughly translates to "Storm" or "Assault" rifle.<sup>1</sup> The  
2 name was subsequently applied to many similar rifles in the  
3 coming decades including dozens of models sold in the United  
4 States. Well into the 2000s, almost everyone I knew in the  
5 industry used the terms "assault weapon" and "assault rifle."  
6 During my career, I personally experienced the overt NSSF effort  
7 which sought to deflect away from that moniker by reframing the  
8 origin of this terminology. This effort is still ongoing today  
9 and commonly referenced industry instructions remain on the NSSF  
10 website: "If someone calls an AR-15 or other semi-automatic rifle  
11 an 'assault weapon,' he or she either supports banning these  
12 firearms or does not understand their function and sporting use,  
13 or both. Please correct them. 'Assault weapon' is a political  
14 term created by California anti-gun legislators to ban some semi-  
15 automatic rifles there in the 1980s."<sup>2</sup>

16 51. Since the late-2000s there has been a rapid increase in  
17 the number of companies that manufacture and market versions of  
18 AR-15s, other similar assault weapons which are now increasingly  
19 sold and marketed with LCMs. This has resulted in a  
20 transformation of the marketplace from only a few AR-15  
21 manufacturers in 2000, to several hundred AR-15/assault rifle  
22 companies today. The list of AR-15 manufacturers now includes  
23 small, medium, and the largest firearms companies in the United  
24 States, all of whom are striving to obtain market share with  
25 derivatives of what is effectively the same product.

26 <sup>1</sup>CNN article on the derivation of Assault Rifle term:

27 <https://money.cnn.com/2016/06/29/smallbusiness/german-sturmgewehr-assault-rifle/index.html> (last viewed Feb 2023)

28 <sup>2</sup>NSSF MSR marketing webpage <https://www.nssf.org/msr/> (last visited Jan 20, 2023)

1           52. The crowded nature of the marketplace has created a  
2 highly competitive environment resulting in thousands of  
3 “continuous improvements” in AR-15-style firearms sold to the  
4 general public as a way to encourage consumers to buy one rifle  
5 over another. Over time, these improvements have generally been  
6 incorporated on most rifles across the marketplace and the result  
7 are firearms that are almost universally more accurate, more  
8 portable, and more specifically tailored to produce lethal  
9 outcomes. These guns are now also far more likely to be sold with  
10 an LCM.

11           53. Mirroring the trend in AR-15s, there has also been a  
12 notable increase in the prevalence in the civilian marketplace of  
13 handguns designed to accept large capacity magazines. While it is  
14 generally true that larger capacity handguns have existed in the  
15 industry for several decades, it is also true that until the mid-  
16 2000s there was little focus upon them as a central source for  
17 industry product development and growth. It is my opinion that  
18 the acceptance of the AR-15 and the LCMS often sold with these  
19 rifles was the catalyst for the related change in the handgun  
20 market.

21           54. The recent shift to focus on tactical, offensive,  
22 higher capacity handguns has resulted in a competitive trend that  
23 is accelerating and therefore creating an “arms race” within the  
24 industry. Where there were once relatively few such guns or  
25 marketing efforts, today “increasing capacity” is used as a  
26 central competitive marketing tool. Even Ruger, the company  
27 founded by Bill Ruger who plainly stated “no honest man needs  
28

1 more than 10 rounds in any gun,"<sup>3</sup> now touts the 12+1 round  
2 capacity of its new Max9 pistol.<sup>4</sup>

3 55. Because guns generally do not wear out, and because  
4 competitive markets force companies to innovate, most handgun  
5 companies now use "increasing capacity" as a way to find  
6 advantage in the marketplace. In my opinion, this is a byproduct  
7 of market competition, not of self-defense necessity.

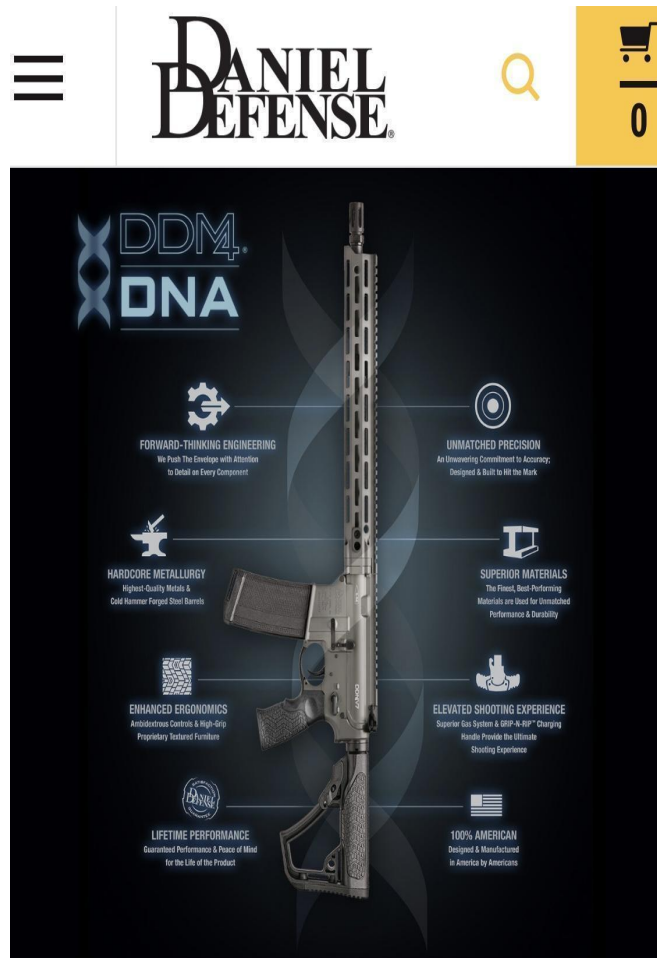
8 56. This recent change in the handgun market is led by  
9 innovations and "social license" created in the AR-15 market.  
10 Modern AR-15 marketing dramatically increases the prevalence of  
11 LCMs in new firearms because a major part of that marketing is  
12 centered on increasing maximum offensive killing capacity. AR-15s  
13 and LCM-capable pistols are now increasingly prevalent in what  
14 the industry calls the "tactical market", a term that properly  
15 labels the guns as tools for a planned military action. In my  
16 opinion, LCMs are not necessary for self-defense, but they are  
17 integral to this marketing both in handguns and in rifles.

18 57. The trend towards increased capacity and lethality is  
19 easy to see in AR-15s especially when current rifles are compared  
20 to the assault rifles requested and then adopted by the U.S.  
21 military or those sold by Colt 30 years ago. The commercially  
22 available AR-15s of today are more reliable, more accurate, more  
23 ergonomic, and therefore more effective. This trend of  
24 "improvement" continues and is aggressively advertised each day

25 \_\_\_\_\_  
26 <sup>3</sup> Bill Ruger Article: <https://www.nhregister.com/connecticut/article/Magazine-limits-were-first-proposed-by-11435654.php#:~:text=%22No%20honest%20man%20needs%20more.Connecticut%20gun%20maker%20Sturm%2C%20Ruger.> (Last viewed March 13, 2023)

27 \_\_\_\_\_  
28 <sup>4</sup> Ruger Max pistol: <https://www.ruger.com/products/max-9/models.html> (last viewed Feb 1 2023)

1 by dozens of firearms companies. For example, this is a typical  
2 marketing page<sup>5</sup> for an AR-15 manufacturer in which a prominent  
3 company advertises the various ways in which its features  
4 “improve” upon the basic AR-15 (additionally notice the large  
5 capacity magazine protruding in front of the pistol grip):



28 <sup>5</sup> <https://danieldefense.com/daniel-dna> (last visited Jan. 10, 2023).

1           58. The increase in the AR-15 market has also facilitated  
2 an increase in accessory availability for the AR-15 and similar  
3 firearms. These accessories are commonly referred to as  
4 “furniture” because they are items a rifle owner can add to the  
5 gun, just as a person would add furniture to personalize an  
6 apartment.

7           59. Most AR-15s and similar firearms now incorporate  
8 features designed to accept one or more of dozens of accessories  
9 (furniture), all of which are designed and marketed to increase  
10 the effectiveness of the rifle in battlefield situations. The  
11 list of accessories includes hundreds of LCM options, highly-  
12 effective electronic optics, more sensitive triggers, devices  
13 such as bump stocks and modified trigger systems which convert  
14 guns to near-fully-automatic rates of fire, forward and pistol  
15 grip options, tactical lights, laser-pointing devices, and many  
16 others. Almost none of these accessories were available to the  
17 United States military at the time of the rifle’s adoption in the  
18 early 1960s, and in many cases U.S. civilians can now outfit  
19 rifles in a manner more lethal than the rifles carried by the  
20 military. There are now hundreds of companies and retailers who  
21 encourage customers to make their rifles more effective by  
22 accessorizing. The following are examples of industry marketing  
23 efforts which illustrate this trend (and note that every example  
24 includes a rifle equipped with an LCM):<sup>6</sup>

25  
26  
27 <sup>6</sup> AR-15 accessory article examples: <https://www.tactical-life.com/gear/top-10-black-guns-ar-accessories/> (last visited Jan. 10, 2023), and  
28 <https://www.pewpewtactical.com/best-ar-15-furniture-accessories/> (last visited Jan. 10, 2023).



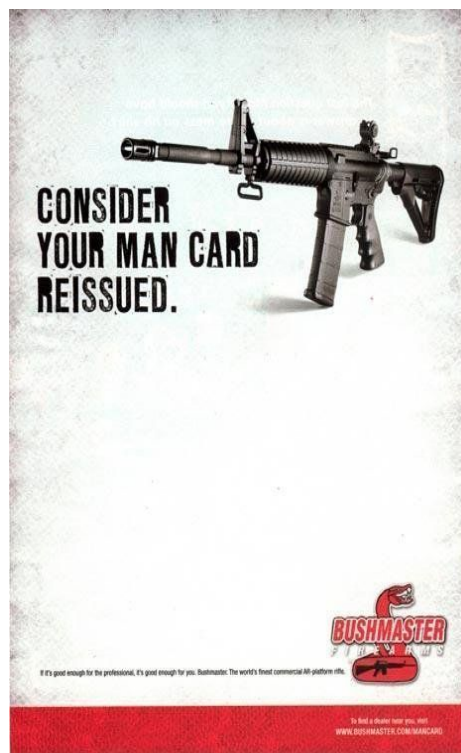
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60. The competitive AR-15/assault rifle marketplace has also resulted in manufacturers seeking to create new customers through professional, targeted marketing campaigns. Most of these campaigns prominently feature large capacity magazines and overtly target young American males, such as this example from 2010:



1           61. The gun and LCMS advertised in this campaign  
2 (Bushmaster XM15 rifle) has been used by young men in notable  
3 mass shootings, including those in Sandy Hook, Connecticut, and  
4 Buffalo, New York.<sup>7</sup>

5           62. Other prevalent AR-15 marketing encourages potential  
6 customers to buy and deploy the same weaponry as and same large  
7 capacity magazines of elite Special Forces units of the U.S.  
8 military. It is my experience that most of these customers are  
9 young men. In other words, despite the “modern sporting rifle”  
10 claims, marketing within the firearms industry admits to, and  
11 capitalizes on, the AR-15-style weapons and large capacity  
12 magazines as offensive military weaponry sold to young men, as in  
13 this example:



27 <sup>7</sup> Bushmaster XM15 Mancard advertising article:  
28 <https://www.ammoland.com/2010/05/bushmaster-man-card/#axzz7q0HQao58> (last visited Jan. 10, 2023).

1 63. A version of the Daniel Defense Rifle in this  
2 advertisement was the weapon used in the Uvalde, Texas shooting.<sup>8</sup>

3 64. Smith and Wesson's AR-15 variant is now widely reported  
4 to be the best-selling AR-15 in the United States. These rifles  
5 and their accompanying large capacity magazines have been used in  
6 notable mass shootings including in the Parkland, Florida, school  
7 shooting and in the Highland Park, Illinois, July 4<sup>th</sup> parade  
8 shooting. Smith and Wesson's primary customers for this rifle are  
9 U.S. civilians who are generally not trained in military or  
10 police tactics nor monitored by military safety protocols, but  
11 the company's chosen name for this rifle—the M&P15, which means  
12 "Military and Police AR-15"—suggests buyers will be equipped with  
13 the same offensive rifles as trained military and police units.<sup>9</sup>  
14 Here is an image of the rifle, again notice the conspicuous large  
15 capacity magazine:



25  
26 <sup>8</sup> Michael Daly, *Uvalde Shooter's Gunmaker Hypes 'Revolutionary' New Killing*  
27 *Machine*, [https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine)  
28 [gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine](https://www.thedailybeast.com/uvalde-shooter-salvador-ramos-gunmaker-daniel-defense-hypes-revolutionary-new-killing-machine) (last visited  
Jan. 10, 2023) (showing Daniel Defense advertisement)

<sup>9</sup> <https://www.smith-wesson.com/product/mp-15-sport-ii> (last visited Jan. 10,  
2023).

1           65. In the last 5 years there is an increasing trend from  
2 accessory manufacturers to offer even higher capacity magazines  
3 for rifles and many handguns. An illustrative example is a  
4 picture from the highly touted 2018 ProMag introduction of their  
5 50 round drum magazine for Glock Pistols.<sup>10</sup>



17  
18           66. Many of these higher capacity product developments are  
19 first pioneered by accessory companies such as in the case above.  
20 But many gun companies also offer increasingly large capacity  
21 magazines. Verification of this trend is found in The  
22 ArmoryLife's review of the new Springfield Armory 35-round  
23 magazine for their popular XD pistols (pictured below): "We have  
24 all seen the growth of enhanced capacity magazine systems, from  
25 drum magazines to stick magazines, but most of them come from the  
26

27 <sup>10</sup> ProMag 50 round drum review from The Firearms Blog:  
28 <https://www.thefirearmblog.com/blog/2019/01/23/shot-2019-promag-glock-50-round-drum-mags/> (last view Feb 24, 2023)

1 aftermarket. Well, not anymore. Springfield has given us a new  
2 35-round extended magazine for the XD-M family of 9mm pistols."<sup>11</sup>

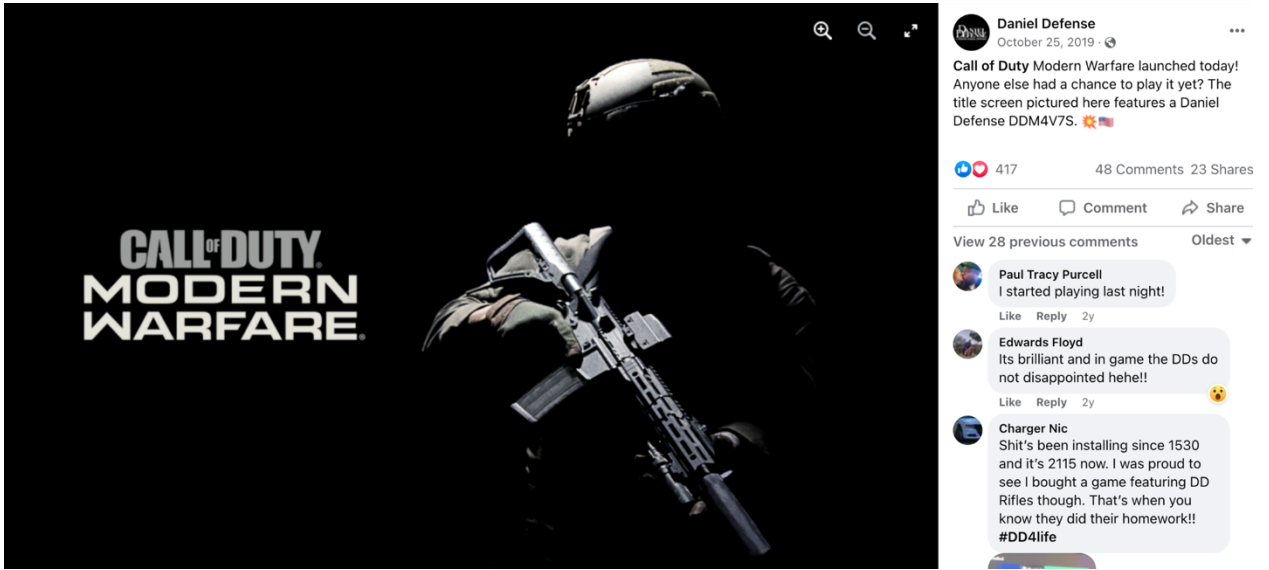


12 67. Many firearms companies now seek out, and celebrate  
13 placement of firearms with large capacity magazines in popular  
14 video games that are commonly played by children. The following  
15 is a notable example of an AR-15 company celebrating the  
16 placement of their gun into the Call of Duty Modern Warfare video  
17 game:<sup>12</sup>

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26 <sup>11</sup> Review of Springfield 35 round handgun magazines:  
<https://www.thearmorylife.com/review-xd-m-9mm-35-round-extended-magazine/>  
(last viewed March 15, 2023)

27 <sup>12</sup> Article on firearms marketing:  
<https://www.theatlantic.com/ideas/archive/2022/07/firearms-industry-marketing-mass-shooter/670621/> (last viewed Feb 1, 2023)

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68. Some prominent AR-15 companies design and market their rifle models with specific suggested uses that bear obvious similarities to mass shooting events that have happened in U.S. urban environments such as the Pulse Nightclub, Las Vegas Concert Shooting, and the El Paso Walmart shooting. These campaigns typically do not reference self-defense and instead rely upon marketing assault rifles and LCMs in offensive actions. This is one relevant example from AR-15 maker Wilson Combat:<sup>13</sup>



<sup>13</sup> <https://www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/> (last visited Jan. 10, 2023).

1 69. There are many AR-15 companies that combine the trends  
2 of continuous improvement, accessorization (including multiple  
3 LCMs), and modern digital marketing to encourage potential  
4 customers to optimize their rifles through an online ordering  
5 process. Below is one such example.<sup>14</sup> The official corporate name  
6 of this manufacturer further suggests the preferred use of their  
7 AR-15s is in offensive action from "rooftops," which is precisely  
8 how the shooter during the July 4th Highland Park, Illinois,  
9 parade deployed his AR-15 rifle and LCMs.



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24 70. In my experience, most industry members commonly  
25 discuss the *Heller* decision and openly support the right to self-  
26 defense as established in that decision. Because most industry  
27 members are aware of *Heller* and subsequent legal decisions, they

28 <sup>14</sup> <https://rooftoparms.com/> (last visited Jan. 10, 2023).

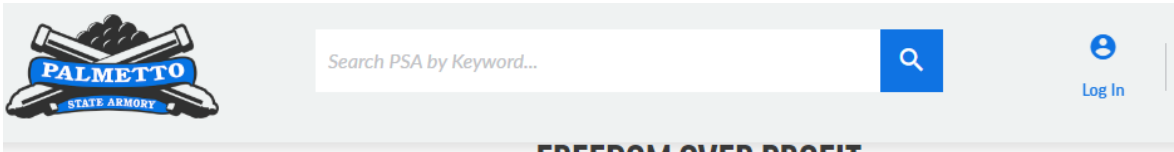
1 have in some cases sought to sell assault weapons and accessories  
2 (such as LCMs) in an effort to put those weapons and accessories  
3 into what they believe would constitute “common use” under  
4 *Heller*. An illustrative example of this effort can be found in  
5 the mission statement of Palmetto Armory, which is one of the  
6 largest retailers in the United States. Palmetto publicly  
7 partners with most of the largest manufacturers and even hosts a  
8 large annual “gathering” which is supported and attended by  
9 leading industry companies.<sup>15</sup> Palmetto’s prominence is important  
10 because their well known and openly-advertised mission, found in  
11 the image below, is not focused on self defense or even profit,  
12 rather it is specifically focused on quickly establishing that  
13 certain guns and LCMs are “common” as mentioned in the *Heller*  
14 decision; “we want to sell as many AR-15 and AK-47 rifles as we  
15 can and put them into common use in America today.”<sup>16</sup>

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27 <sup>15</sup> Website advertising Palmetto State Armory Industry “Gathering”  
<https://palmettostatearmory.com/thegathering.html> (last viewed March 21, 2023)

28 <sup>16</sup> Palmetto State Armory mission statement from website:  
<https://palmettostatearmory.com/about-psa.html> (last viewed March, 22, 2023)



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## FREEDOM OVER PROFIT.

Since its inception, Palmetto State Armory has focused on providing the best quality [AR-15 parts](#) and [accessories](#) for the best price possible. Following year after year of exponential growth, Palmetto State Armory's core principle remains the same, and our commitment to freedom before profit remains unwavering. The idea is simple:

[SELL AS MANY GUNS TO AS MANY LAW-ABIDING AMERICANS AS POSSIBLE.](#)

Putting guns into "common use" is an important legal defense established by the Supreme Court that safeguards the rights of the people against tyranny by prohibiting restrictions on firearms found to be "in common use". Putting any gun into "common use" protects against any attempt by the government to further infringe on the Second Amendment right of all Americans.

[OUR MISSION IS TO MAXIMIZE FREEDOM, NOT OUR PROFITS. WE WANT TO SELL AS MANY AR-15 AND AK-47 RIFLES AS WE CAN AND PUT THEM INTO COMMON USE IN AMERICA TODAY. OUR FOCUS ISN'T TO MAKE MASSIVE AMOUNTS OF MONEY BUT TO SPREAD FREEDOM AS FAR AND WIDE AS POSSIBLE. OUR LEGACY WILL NOT BE ABOUT MONEY; WE WANT OUR LEGACY TO BE ABOUT MAXIMIZING AMERICAN FREEDOM. AND WE WORK EVERY DAY TO DO JUST THAT. WE MAKE HIGH-QUALITY FIREARMS AT AFFORDABLE PRICES FOR EVERYONE! THEN WE BACK THEM WITH A FULL LIFETIME WARRANTY.](#)

### **Self-defense and magazine capacity**

71. As previously stated, despite the commercial marketing of LCMs in recent years, there is no firearm that requires an LCM to function as designed. By this I mean that all firearms that can accept an LCM can also accept a magazine that holds 10 or fewer rounds and still function precisely as intended. Even those handguns that are typically sold with an LCM (for example, a Glock 17 and all of the other LCM handguns pictured earlier in this report) can be used with a 10-round or standard-capacity magazine, and there is no difficulty in obtaining such a compliant magazine, as I explain in more detail below. Models with 10-round or even lower capacity magazines are offered by

1 manufacturers. And even if the model itself is not sold with a  
2 10-round or standard-capacity magazine off the shelf,  
3 manufacturers, retailers, and dozens of online sellers sell 10-  
4 round and standard-capacity magazines as an accessory. I am not  
5 aware of any semi-automatic firearm sold in the United States  
6 today for which there are no 10 or fewer round magazines readily  
7 available.

8 72. It is also important to note that any gun with a 10-  
9 round capacity is a very effective self-defense weapon. In fact,  
10 there are many handgun models that utilize 10-round magazines and  
11 are openly praised by industry experts and journalists as  
12 excellent self-defense options. The following is a review for the  
13 Springfield Hellcat, which is one of the best-selling handguns in  
14 the country and this review is offered by notable industry  
15 website TheArmoryLife.com: "10 rounds of 9mm in a micro-compact  
16 is still a formidable defense. Springfield Armory recently  
17 announced the addition of a 10-round version of the Hellcat  
18 pistol for shooters in states that require restricted magazine  
19 capacities. The new 10-round variant of the Hellcat offers a  
20 great self-defense option for owners that live in areas with  
21 these restrictions."<sup>17</sup>

22 73. Glock too offers many handgun models that are not  
23 prohibited by the California law as long as they are outfitted  
24 with a legal magazine. Even the Glock 17, which is typically sold  
25 with a 17-round magazine, can be outfitted with a 10-round  
26 magazine and in that form is perfectly legal in California. In

27 <sup>17</sup> Review of Springfield Hellcat 10-round version:  
28 <https://www.thearmorylife.com/going-10-rounds-with-the-springfield-hellcat/> (last  
viewed February 8, 2023).

1 fact, there are many 10-round magazines available for Glock  
2 pistols. The following images are from one of dozens of websites  
3 that offer Glock 10-round magazines.<sup>18</sup>



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13 74. Revolvers, which have 5- or 6-round magazine  
14 capacities, are considered to be highly reliable and extremely  
15 effective self-defense guns. During my years in the gun industry  
16 I regularly witnessed the most respected industry experts openly  
17 agreeing on this point. This widely held opinion is summed up in  
18 a 2022 Handguns Magazine article in which the author notes the  
19 reasons for a well-documented recent resurgence in revolver  
20 popularity for self-defense; "While a lot of the surge is due to  
21 folks purchasing small, super-light revolvers for concealed  
22 carry, sometimes overlooked is how good revolvers—particularly  
23 mid- to full-size ones—can be for home defense. Sure, they may  
24 not hold as many rounds as a 9mm semiautomatic, but they're  
25 simple to use. There are no safeties to worry about, no slides to

26  
27 <sup>18</sup> GunMag Warehouse listing for Glock 17 10-round magazines:  
28 [https://gunmagwarehouse.com/glock-gen-4-glock-17-9mm-10-round-factory-magazine.html?queryID=69682e2bd7a4c3fee9ba8c79c3bd20dd&objectID=635&indexName=magento\\_default\\_products](https://gunmagwarehouse.com/glock-gen-4-glock-17-9mm-10-round-factory-magazine.html?queryID=69682e2bd7a4c3fee9ba8c79c3bd20dd&objectID=635&indexName=magento_default_products) (last viewed March 5, 2023).

1 struggle with, no difficult magazines to load, no complicated  
2 manual of arms. With a revolver you just load the cylinder, close  
3 it and pull the trigger. That's pretty much it. And if you're new  
4 to guns and haven't heard about the revolver's reliability, well  
5 it's legendary."<sup>19</sup>

6 75. Many of those same experts also point out that the  
7 average self-defense situation involves very few shots fired. In  
8 fact, in my experience it is generally accepted within the  
9 industry that the average self-defense situation involves three  
10 or fewer shots. This is often discussed and reinforced in  
11 articles written by respected gun industry experts. For example,  
12 the following is an excerpt from a 2015 NRA American Rifleman  
13 article on the desirability of revolvers for self-defense: "The  
14 importance of this difference in ammunition capacity is  
15 debatable. Some self-defense gurus support the idea that more is  
16 better. Others point out that most civilian situations happen so  
17 quickly, with only a few rounds fired (an average of three), that  
18 handgun capacity is a moot point."<sup>20</sup>

19 76. The commonality of 10-round magazines is illustrated by  
20 the marketing of the Beretta 92 which has been the accepted self-  
21 defense pistol of the U.S. military for decades and is one of the  
22 most popular pistols in the United States. (This pistol's  
23 military designation is the M9 and its civilian model is 92FS.)  
24 Beretta sells three versions of this pistol commercially; one is

25 \_\_\_\_\_  
26 <sup>19</sup> Handguns Magazine Revolver Article:  
<https://www.handgunsmag.com/editorial/best-revolvers-defense/386911> (Last  
viewed March 12, 2023)

27 <sup>20</sup> NRA American Rifleman article on revolvers:  
28 <https://www.americanrifleman.org/content/why-choose-a-wheelgun/> (last viewed  
February 1, 2023).

1 sold with a 15-round magazine and two are sold with 10-round  
2 magazines. The two 10-round options are models built to comply  
3 with common magazine-capacity regulations in states such as  
4 California. Nowhere does Beretta, or any other reputable  
5 authority, claim that the 10-round versions of this pistol are  
6 unreliable or defective in any way. Neither is there any issue  
7 with increased price or less availability. The following is the  
8 Beretta website page advertising the three models of this pistol.  
9 The only difference in the models is the magazine offered.  
10 Switching this accessory between pistols is an easy and common  
11 change. Even the pistol image is the same for all three.<sup>21</sup>



## Beretta 92FS

US Military contract--check. Renewed US Military contract after demanding campaigns in the world's toughest environments--check. Find out what makes t... Read More

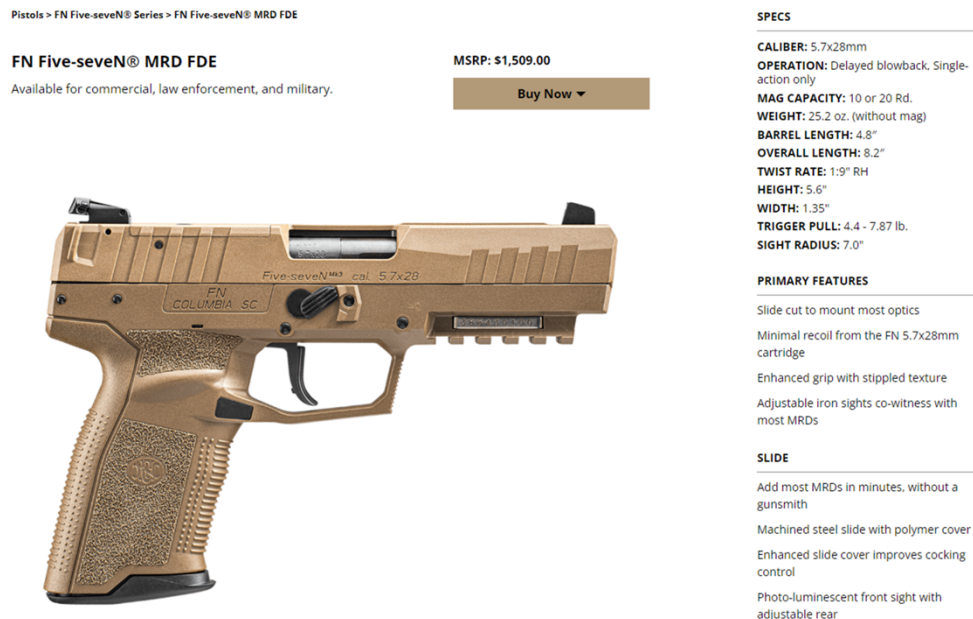
[BUY NOW](#)



Model Code	J92F300CA	JS92F300	JS92F300M
Model Name	92FS	92FS	92FS
MSRP	\$ 709.00	\$ 709.00	\$ 709.00
Action	Dbf/Sngl	Dbf/Sngl	Dbf/Sngl
Caliber	9 mm	9 mm	9 mm
Rounds	10 Rounds	10 Rounds	15 Rounds

<sup>21</sup> Beretta Website 92FS pistol: <https://www.beretta.com/en-us/beretta-92fs/> (last viewed February 24, 2023).

1 77. Another illustrative example is FN's 5-Seven pistol,  
2 which is marketed to "commercial, law enforcement and military"  
3 customers. According to the FN website, this pistol is offered  
4 with either 10- or 20-round magazines. From outward appearances  
5 there is no difference in either, and FN makes no claim regarding  
6 the 10-round option being more difficult to obtain, more  
7 expensive, or less reliable. In fact, FN markets both the 10- and  
8 20-round versions as "the ultimate precision pistol."<sup>22</sup>



21 78. Shotguns are also excellent self-defense guns with some  
22 holding only 2 rounds and most no more than 5-6 rounds. Some of  
23 the best options are pump-action and almost all are legal in  
24 California. In fact, there are dozens of published articles that  
25 claim pump-action shotguns are the best self-defense firearm  
26 available. One such opinion can be found in a 2020 Outdoor Life

27 <sup>22</sup> FN Five-seveN MRD FDE website: [https://fnamerica.com/products/pistols/fn-](https://fnamerica.com/products/pistols/fn-five-seven-mrd-fde/)  
28 [five-seven-mrd-fde/](https://fnamerica.com/products/pistols/fn-five-seven-mrd-fde/) (last viewed March 11, 2023).

1 article, the subtitle of which describes an important shotgun  
2 advantage; "Shotguns are more accurate than handguns and ARs when  
3 an intruder enters your home." The article goes on to label the  
4 pump shotgun as the "ultimate" and "probably the best" choice;  
5 "The 12-gauge pump shotgun is touted as the ultimate home  
6 defender. It's far from a one-trick-pony and about as general-  
7 purpose of a firearm as you can buy" and "Once properly set up,  
8 the 12-gauge shotgun is probably the best all-around choice for  
9 the average homeowner seeking a defensive firearm."<sup>23</sup>

10 79. There are many reasons why shotguns are considered  
11 superior defense guns. Among these are that they are easy to  
12 operate and are very forgiving with regards to accuracy because  
13 they spray a wide "pattern" of projectiles as opposed to a rifle  
14 such as an AR-15 that fires singular bullets. The bullets from  
15 these rifles are far more deadly in targeted offensive operations  
16 and at longer ranges (from 50 to 250 yards) but shotguns are  
17 designed for defensive situations which almost always happen at  
18 short ranges below 50 yards. These are the same situations where  
19 surprise commonly leads to stress-induced inaccurate shooting,  
20 which is why the wider pattern of a shotgun is generally touted  
21 as superior.

22 80. Many of the best self-defense shotguns are designed  
23 with capacities of 5 or 6 rounds, the most famous of which is the  
24 Remington 870. In my more than 25 years in the industry, I never  
25 met anyone who disputed that the 870 pump shotgun was among the  
26 most popular and effective home defense guns of all time. In

27 <sup>23</sup> Why a Shotgun is the Best option for Home Defense:  
28 <https://www.outdoorlife.com/story/guns/why-a-shotgun-is-the-best-option-for-home-defense/> (Last viewed March 12, 2023)

1 fact, many industry executives, most of whom did not work at  
2 Remington, often told me that the 870 was their personal  
3 preferred self-defense firearm.

4 81. This review of self-defense guns from the highly  
5 respected and notable industry publication Gun Digest confirms  
6 this widely held consensus in an article about the Remington 870  
7 Home Defense model: "As plain and simple as it gets when it comes  
8 to Remington 870 tactical shotguns, the Home Defense is a knock-  
9 out bargain. There are cheaper 870s available, but none set up to  
10 excel like this one. In particular, its 6-round tubular magazine—  
11 two more than standard 870 models—gives you more than enough  
12 firepower to handle anything outside a Hunnish siege."<sup>24</sup>

13 82. Below is a photograph from that article of the gun  
14 described. The gun, which according to the article "excels" at  
15 self-defense, has only a 6-round capacity and cannot accept  
16 detachable LCMS.

17  
18 870 Home Defense



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27 <sup>24</sup> Gun Digest review of shotguns for self-defense: <https://gundigest.com/gun-reviews/shotguns/top-four-remington-870-tactical-shotgun-options> (last viewed  
28 March 11, 2023).



1 83. In addition to this Remington model, there are dozens  
2 of other highly effective self-defense shotguns, rifles and  
3 handguns that remain legal in California.

4 CONCLUSION

5 84. LCMs and many of the guns that utilize them were  
6 designed for offensive military or "assault" actions, which is  
7 why they are most often selected by mass shooters.

8 85. Until very recently, the firearms industry itself  
9 publicly believed this was the case and therefore sought to apply  
10 voluntary and restrictive rules and norms to the sales and  
11 marketing of such items.

12 86. All magazines are accessories; a gun will function with  
13 a large or small magazine; and an LCM is not necessary for self  
14 defense.

15 87. By the industry's own admission, 10-round (or smaller)  
16 magazines are ubiquitous and do not hinder normal function of any  
17 semi automatic firearm.

18  
19 I declare under penalty of perjury that the foregoing is  
20 true and correct.

21 Executed on April 28, 2023 at Kalispell, Montana.

22  
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25 Ryan Busse