

# **EXHIBIT 3**

JOHN J. DONOHUE  
FLANAGAN vs CALIFORNIA ATTORNEY GENERAL

July 12, 2017

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1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3  
4 MICHELLE FLANAGAN, SAMUEL  
5 GOLDEN, DOMINIC NARDONE,  
6 JACOB PERKIO, and THE  
7 CALIFORNIA RIFLE & PISTOL  
8 ASSOCIATION,

9 Plaintiffs,

10 vs.

No. 2:16-cv-06164-  
JAK-AS

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

20 Defendants.

21 ~~~~~

22 DEPOSITION OF

23 JOHN J. DONOHUE

24 Wednesday, July 12, 2017

25 9:47 a.m.

180 East Ocean Boulevard, Suite 200

Long Beach, California

Sherryl Dobson, RPR, CCRR, CSR No. 5713



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JOHN J. DONOHUE  
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EXAMINATION

JOHN J. DONOHUE

BY MR. BRADY

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DEPOSITION OF JOHN J. DONOHUE

Wednesday, July 12, 2017

JOHN J. DONOHUE,  
having been first sworn, testified as follows:

EXAMINATION

BY MR. BRADY:

Q Good morning. Can you state your name for the record, please?

A John Donohue.

MR. BRADY: And I'm going to mark this Exhibit 1.

(Exhibit 1 was marked.)

BY MR. BRADY:

Q Have you seen this before?

A I don't know if I've seen this.

MR. EISENBERG: Yeah, I don't think I forwarded this one to him.

MR. BRADY: Yeah.

MR. EISENBERG: This one came in very recently, right?

MR. BRADY: Yes.

MR. EISENBERG: So I'll represent that I did not send this to him, but I just communicated with him about the change of the location, as, obviously, he's here.

MR. BRADY: Yeah, yeah, of course. Yeah, that's

1 fine.

2 Q Just want to make -- so you understand that  
3 you're here today to have your deposition taken?

4 A Hmm-hmm.

5 Q Can you please say yes or no. The hmm-hmms are  
6 kind of hard to spell. I know it's difficult, but it'll  
7 make everyone's life a little easier.

8 On that note, how many depositions have you  
9 had -- have you been -- how many times have you been  
10 deposed as an expert?

11 A That's a good question. I'm not totally sure,  
12 but maybe five times.

13 Q Okay.

14 A It's a rough guess.

15 Q Okay. So it's a handful, you'd say? Less than  
16 ten?

17 A Yeah, I think less than ten.

18 Q Okay. So do you feel that you're familiar with  
19 the processes of the deposition?

20 A Yes.

21 Q So when I give you the admonitions about, you  
22 know, please make audible responses, yes, no, that you're  
23 under oath, you understand that?

24 A Yes.

25 Q So the testimony you give is the same as if you



1 were giving it in a court.

2 You understand that?

3 A Yes.

4 Q So if you do not fully understand a question,  
5 please feel free to ask me to clarify. The only thing  
6 that I do ask is that you allow me to finish my question,  
7 and I will allow you to finish your answer.

8 You also might want to leave a little lag time  
9 in answering my question in case Jonathan would like to  
10 make an objection, although I don't know that I'll be  
11 getting into anything that would require that.

12 But does that all make sense?

13 A That's fine.

14 Q Okay. So you are here as an expert on behalf  
15 of the Attorney General, Xavier Becerra, in the matter of  
16 Flanagan v. Becerra; is that correct?

17 A That's right.

18 Q Have you prepared for this deposition in any  
19 way?

20 A Yeah. I mean, in the sense that I sort of  
21 reviewed my report and the report of Gary Kleck and, you  
22 know, looked over my broad materials.

23 Q When you say the report of Gary Kleck, you're  
24 referring to the rebuttal report that he provided in  
25 response to the report that -- your expert report in this

1 matter?

2 A That's right.

3 Q And the materials that you say, are those the  
4 materials that are cited in your report as supporting --

5 A Yes.

6 Q -- your conclusions?

7 Okay. That's a yes?

8 A Yes.

9 Q I know. I'm sorry, I know it's --

10 A I'll be attentive today.

11 Q That's okay.

12 Did you have any communications with  
13 Mr. Eisenberg during this preparation?

14 A Was that ever or just in the last couple of  
15 days?

16 Q I'm sure you did ever. He just represented  
17 that he communicated the deposition notice to you. But  
18 in preparation for the material that would be presented  
19 in this deposition.

20 A Yes.

21 Q How much time did you spend speaking with  
22 Mr. Eisenberg, more or less?

23 A Maybe hour and a half in total, I'm thinking.

24 Q You provided in your expert report -- and I  
25 guess we should mark that as Exhibit 2, please.

1 (Exhibit 2 was marked.)

2 BY MR. BRADY:

3 Q So Exhibit 2 has been marked.

4 This is your expert report --

5 MR. EISENBERG: Have you got only one copy? In  
6 other words, you have only two copies here?

7 MR. BRADY: Yeah. I can have another one --

8 MR. EISENBERG: Okay. So we'll both work off of  
9 the actual exhibit.

10 MR. BRADY: Okay.

11 MR. EISENBERG: As marked by the court reporter.

12 MR. BRADY: That's fine. And if you need to make  
13 any notes, then I will trade you. If that's to your  
14 liking.

15 Q Is this that I've just marked as Exhibit 2 the  
16 expert declaration -- or the expert report that you  
17 prepared for this matter?

18 A Yeah, it seems to be the report, and then I  
19 attached my CV. I think I was asked to attach a CV, so I  
20 attached a CV.

21 Q And is that CV comprehensive as to all of  
22 your -- all of your background and qualifications?

23 A Yes.

24 Q What was your assignment in this matter for  
25 Mr. Eisenberg?

1 A I was asked to write an expert report, sort of  
2 rehearsing my knowledge and research on the impact of  
3 right-to-carry laws on crime.

4 Q Okay. And have you finished that assignment?

5 A Yeah, I mean, the assignment was the expert  
6 report. So I did finish that.

7 Q So that expert report contains all of your  
8 conclusions that you intend to provide in this matter?

9 MR. EISENBERG: Objection. Lacks foundation.

10 We submitted an updated report to you. Sorry,  
11 an updated version of the study that's attached to the  
12 report. So I just wanted to note that.

13 BY MR. BRADY:

14 Q So does the updated study -- would that be  
15 Exhibit B? Would the updated study -- so is Exhibit B to  
16 this report that you originally provided no longer the  
17 most recent version of your work?

18 A Yes, I'm -- I'm still working on that paper.  
19 So there are always updates coming along.

20 MR. EISENBERG: If you recall, I e-mailed to you  
21 an updated version. They're not hugely different, but  
22 there is a more updated version. So I e-mailed it to  
23 you.

24 BY MR. BRADY:

25 Q Okay. But the report has not been revised?

1 A No, I have not revised the report.

2 Q Only Exhibit B?

3 A Yes.

4 Q So then the answer is you have not finished  
5 your assignment in this matter?

6 MR. EISENBERG: Objection. Ambiguous.

7 But you may answer.

8 THE WITNESS: Okay. I just wasn't sure if I was  
9 supposed to answer.

10 I mean, I think of myself as having finished  
11 the expert report, and in that sense -- although my --  
12 you know, my job is to be a researcher and, you know,  
13 until this paper is published, I'll be working on it. So  
14 that process goes on.

15 So I think my task here was to write the expert  
16 report, but my task, you know, and my job as a Stanford  
17 researcher is to, you know, get that paper published, and  
18 I'll be working on that until it finally is published.

19 BY MR. BRADY:

20 Q So that -- the paper that was attached as  
21 Exhibit B, both the original Exhibit B and the updated  
22 one -- neither is published; is that correct?

23 A That's right.

24 MR. EISENBERG: Wait. Objection. Ambiguous as to  
25 the word "published."

1 THE WITNESS: Yeah, just --

2 BY MR. BRADY:

3 Q You just -- did you just say that it is -- your  
4 paper is not published yet?

5 A Yeah. What I --

6 Q What did you mean by it is not published?

7 A I finished the paper and sent it off to the  
8 National Bureau of Economic Research, and they released  
9 it as an NBER working paper. So in one sense that's  
10 publication.

11 But when I was referring to publication, I was  
12 meaning -- whenever I finish a major paper, I would  
13 submit it to a peer-review journal, and that,  
14 unfortunately, takes a long time.

15 I have submitted this paper, and, you know,  
16 it'll be a while before I hear back from them. And, you  
17 know, it would be -- it wouldn't be unusual for them to  
18 say, you know, do this or do that, you know, can you add  
19 a table or something like that. So in that sense  
20 there'll be a process before the ultimate publication  
21 comes.

22 Q Okay. So what does "working paper" mean  
23 exactly?

24 A Well, the National Bureau of Economic  
25 Research -- I'm very happy to be a member of it -- really

1 is the most elite group of empirical academic economists  
2 or empirical economists in the country.

3 And if you're a fellow of the National Bureau  
4 of Economic Research as a way to facilitate your  
5 research, getting out into the public domain more  
6 rapidly, they will, you know, essentially publish it and  
7 reprint it and -- I could even show you what the -- they  
8 do.

9 I think I brought a copy of the actual  
10 publication that they were -- so like this is the NBER  
11 working paper publication, and this goes on to, you know,  
12 everyone in the world that they have on the mailing list.

13 MR. EISENBERG: Do you have multiple copies of  
14 that?

15 THE WITNESS: I do have multiple copies, although  
16 I don't have multiple copies with me.

17 MR. EISENBERG: Right.

18 THE WITNESS: But certainly, people can take this  
19 one, or I can send them to them.

20 MR. EISENBERG: Can we mark this -- I mean, it's  
21 your deposition -- but if he wanted to mark it as an  
22 exhibit and it would stay here, is that going to  
23 present --

24 THE WITNESS: Oh, no, no, no, problem. I have a  
25 stack of these. They send maybe ten of them.

1 MR. BRADY: Okay. Then we mark this as Exhibit 3,  
2 please.

3 (Exhibit 3 was marked.)

4 THE WITNESS: I should have thought about bringing  
5 more. I probably have thrown them all out.

6 BY MR. BRADY:

7 Q So a working paper, to be clear, has not been  
8 peer reviewed?

9 A No, it's only something that a research fellow  
10 of the NBER has submitted. Jim Poterba, who's the head  
11 of it, then makes a judgment about whether it's  
12 appropriate to send out, and he does send it out if it  
13 is.

14 Q Do people in your field cite to working  
15 papers --

16 MR. EISENBERG: Objection. Ambiguous as to  
17 "field" -- oh, I'm sorry, you're not finished? Okay. I  
18 thought you'd finished.

19 BY MR. BRADY:

20 Q Do people in research fields rely on working  
21 papers in supporting other -- in supporting their  
22 studies?

23 MR. EISENBERG: Objection. Vague and ambiguous.  
24 The term "research field" is overbroad and may go beyond  
25 the particular expertise of Professor Donohue.



1 But you may answer.

2 THE WITNESS: Okay. Yeah, in my experience, it  
3 would be unusual in my -- well, I don't know if I want to  
4 go that far. It would be very common in reading a piece  
5 in my field to see an NBER working paper cited.

6 BY MR. BRADY:

7 Q I'm sorry, it would be unusual to see  
8 something --

9 A No, it would be very common to see NBER working  
10 papers cited.

11 Q It would be common to see a published  
12 peer-reviewed study cite a working paper?

13 A Yes. And I'm sure I've done it many times.

14 Q How long did it take you to prepare the report  
15 in this matter?

16 MR. EISENBERG: Objection. Ambiguous as to  
17 "report."

18 Are you speaking about the expert report or the  
19 exhibit?

20 MR. BRADY: The report in this matter.

21 MR. EISENBERG: Okay.

22 BY MR. BRADY:

23 Q Under Federal Rule of Civil Procedures Rule 26,  
24 you had to prepare a report, correct?

25 A Yes.

1 Q And that report, how long did it take you to  
2 prepare?

3 A You know, since I was -- I was getting a lump  
4 sum, I didn't keep track of my hours, which is one reason  
5 I like getting a lump-sum payment. But, you know,  
6 probably 40 hours.

7 Q And what was that lump sum?

8 A I can't remember the precise number, but it was  
9 something like 21 -- 21,000, I think. I would have that  
10 figure somewhere, but I don't recall it off the top of my  
11 head.

12 Q And that was for the report that you prepared  
13 for this matter, not your working paper, correct?

14 A That's right.

15 Ah, yes. I should have noticed that in my own  
16 report I did mention that I was paid \$21,250. So not a  
17 bad guess.

18 Q Do you have a juris doctorate degree?

19 A I do.

20 Q Are you a practicing lawyer?

21 A No.

22 Q Are you a member of the California State Bar?

23 A No.

24 Q Are you a member of any state bar?

25 A Yes.

1 Q What state bar or bars would that be?

2 A Connecticut and D.C.

3 Q Have you ever practiced law?

4 A I have.

5 Q How many firearms-related studies have you  
6 conducted?

7 A You know, I've done a number. And think I  
8 might have even mentioned that in here. Let me refer  
9 back to my own report.

10 So I said my first published article in this  
11 literature appeared 18 years ago, and the latest of my 11  
12 articles in this area was just issued as a National  
13 Bureau working paper.

14 Q So would you represent that every  
15 firearms-related study that you have conducted is  
16 contained in this report?

17 A (No audible response)

18 Q I'm sorry, not contained, mentioned.

19 A I mean, my CV would mention all of those, but I  
20 didn't refer to them in the actual written report. I  
21 don't -- I don't know if I referred to any of the prior  
22 studies other than the National Bureau study.

23 Q Okay. But any firearm-related study or paper  
24 that you have written would be mentioned in the CV?

25 A Yes.

1 Q Do you know whether all of the firearm-related  
2 studies you have conducted analyzed the effectiveness of  
3 a firearm restriction?

4 A You know, I -- a lot of my work -- I was  
5 originally asked to comment on some work that John Lott  
6 had done, in which he was exploring the impact of  
7 right-to-carry laws on crime.

8 And so I would say the heart of my work has  
9 focused on that question, what is the impact on crime of  
10 the state adoption of right-to-carry laws.

11 Q Have you authored or coauthored any studies  
12 about firearms-related matters that are not about  
13 right-to-carry laws?

14 A You know, I don't think that I -- I don't think  
15 I've written anything for a peer-reviewed journal about  
16 firearms that didn't focus on right-to-carry laws.

17 Q Okay. So all of -- is it fair to say that all  
18 of your work on firearm-related matters is about the  
19 effectiveness of right-to-carry laws?

20 A I think all of my publications and  
21 peer-reviewed journal fall into that. Probably, you  
22 know, some shorter pieces that I've worked on have  
23 discussed other aspects of firearm regulation, but I'm  
24 distinguishing between writing for, you know, a  
25 peer-reviewed journal versus, you know, some other forum.

1 Q Okay. At the outset I'd like to get some terms  
2 squared away, because I barely passed statistics class.  
3 So I'm going to need your assistance.

4 What is panel data analysis?

5 A Yeah, this -- this is --

6 Q And before you begin, we just need the  
7 elementary -- dumb it down for me a little bit, just so I  
8 can understand this.

9 A Sure. And I -- this is -- my life is sort of  
10 talking about this, because I do teach this to law  
11 students, which, on the whole, know zero about  
12 statistics. In fact, most of them have gone to law  
13 school because they never wanted to see math again.

14 But John Lott's initial study was a panel data  
15 study, and so what is that? It was actually an  
16 interesting innovation in studies designed to evaluate  
17 laws and policies that has one very nice feature, that  
18 you not only look at the states that you're interested in  
19 that may have had a change in the law, but you also look  
20 over time. And you also look at the states that don't  
21 have the change.

22 So essentially, what I refer to when I say  
23 panel data is I have data on many jurisdictions -- it  
24 could be state; it could be county; it could be city --  
25 plus I follow all of them over some period of time.

1 And so the sort of simplest study is often a  
2 time series study, where you're just looking at, let's  
3 say, California. They made some change, and you compare  
4 before and after. So that would be a time series  
5 analysis.

6 Another time analysis is you just look -- you  
7 know, crime in 2015 across 50 states. That's a  
8 cross-section, looking at one spot in time. And panel  
9 data sort of combines both of them.

10 It not only looks across -- in my study, the 50  
11 or 51 jurisdictions and then over a period of years as  
12 well. So it has all of the advantages of time series and  
13 a cross-section combined. And that was considered to be  
14 a major advance in the study of impact of law and policy.

15 Q Okay. You talked about jurisdiction and time.

16 These are two components of a panel data  
17 analysis; is that correct?

18 A Yes.

19 Q Are those what you call fixed effects?

20 A Well, the -- there's an interesting element in  
21 panel data. One thing that people have realized over  
22 time is that it's often hard to fully capture all of the  
23 influences on -- in this case crime, but it could be  
24 whatever you're interested in looking at -- with  
25 explanatory variables that you can collect.

1           So in an ideal state of the world, a researcher  
2     like me would like to have perfect data, and I could  
3     include all of that into my statistical model, but that's  
4     unrealistic. There are going to be many things that we  
5     won't be able to capture.

6           And so what panel data with fixed effects  
7     allows you to do is it says, We know we can't explain  
8     every reason why South Dakota has a lower crime rate than  
9     Louisiana. So what we will assert into our model is that  
10    there is some enduring fixed effect that explains why  
11    crime is lower in South Dakota than it is in Louisiana,  
12    in addition to whatever things that we can control for,  
13    that we can see.

14          So like one thing you could notice about  
15    Louisiana is it has a different demographic makeup than  
16    South Dakota, and that would influence crime, and I can  
17    control for those things.

18          But in panel data you get this nice benefit of  
19    being able to have this fixed effect captured by the  
20    state fixed effect, which gives you a little bit more  
21    power in being able to draw inferences about the impact  
22    of a change in law or policy. So that is a nice feature  
23    of the data.

24          Q Can you have a panel data analysis without  
25    fixed effects?

1 A Yes, yes, yes.

2 Q And just to be clear, the fixed effects in  
3 your -- that you're referring to are geographic, state,  
4 and time?

5 A Yes. So the other fixed effect that we have  
6 used -- and everyone who has looked at this has done it  
7 since John Lott initiated this literature -- would look  
8 at the fact that there's a very interesting dimension to  
9 crime in the United States, and even internationally,  
10 that there are waves with crime.

11 So if you plot the data for, let's say, murder  
12 in the United States and murder in Canada, they track  
13 each other almost perfectly, even though Canada has less  
14 than one-third the murder rate that we have.

15 So the Canadian fixed effect means that they  
16 have a lower level of crime, but the year fixed effect  
17 means that they get the same change in crime. So it's a  
18 very interesting dynamic of how whatever's in the ether  
19 and ethos of society can impact crime.

20 And these panel data models allow you to  
21 capture that through what's called the year fixed effect.

22 Q Okay. What is a synthetic control?

23 A So this is a -- I mentioned that panel data was  
24 considered a sort of big leap forward in the empirical  
25 evaluation of law. There have been some areas where the



1 panel data results have been a little bit more ambiguous  
2 or uncertain or fragile than people have liked, and it  
3 turns out this area is one of those.

4 And because of that, some researchers at  
5 Harvard Economics Department, specifically Alberto Abadie  
6 and his coauthors, devised a new technique to do a better  
7 job of predicting the actual causal impact of legal or  
8 policy interventions. And they called it the synthetic  
9 controls approach.

10 Essentially, what it does is it says, well, one  
11 problem that we have with the panel data approach is that  
12 you're always trying to replicate as closely as you can  
13 something like the experience of a randomized control  
14 experiment that you would see in the medical realm. So  
15 they have a treatment group and a control group.

16 In the greatest of all worlds, you've  
17 randomized people into those groups and that's the gold  
18 standard of identifying causal impacts. Very hard to do  
19 that in this domain and in many social domains. So  
20 that's why panel data was implemented as a way to get  
21 better estimates.

22 But the critique of panel data is you separated  
23 the world into the treatment group, the states that adopt  
24 the right right-to-carry laws, and the control group, the  
25 states that haven't yet adopted it. But that may not be

1 the best comparison study.

2           There may be too much imprecision because --  
3 and this turned out to be the problem with John Lott's  
4 original work. He had a small number of states that had  
5 adopted right-to-carry laws, but they were states like  
6 South Dakota, Maine, and when you take those as your  
7 treatment statements and compare those to the  
8 non-treatment states, the states that did not adopt right  
9 to carry, your estimates are a little less precise than  
10 you would like.

11           And so the idea behind Abadie's work is, rather  
12 than having every state as a panel data be the control if  
13 you're not a treatment, I think we can do better, and we  
14 can find a protocol to identify what are a better set of  
15 control states. And that's what the synthetic control  
16 tries to do.

17           It tries to concoct a better control, so that  
18 we can answer the -- the big question in this literature  
19 is what is the counterfactual. So when Texas adopts a  
20 right-to-carry law, we see what happens afterwards. We  
21 can't see what would have happened, had they not adopted  
22 the right-to-carry law.

23           And the synthetic control is going to give you  
24 an estimate of what would have happened, had Texas not  
25 adopted a right-to-carry law.

1 Q What is a regression?

2 A So panel data is one form of the broader tool  
3 of multiple regression, and essentially, all the  
4 regression is trying to do is to allow you to put in some  
5 explanatory variables into a statistical model that will  
6 explain the outcome that you're interested in.

7 And so you could -- I mean, literally, we have  
8 regressions for everything you can imagine. So for a  
9 while I would keep track of, you know, how many hours of  
10 sleep I would get, and I'd put in explanatory variables  
11 like how much I exercised the day before or, you know,  
12 how late I ate or -- and then I would run regressions on  
13 how I would feel every day, and I would put an  
14 explanatory variables like how much I slept and, again,  
15 what I ate.

16 So whatever you're interested in, if you can  
17 get data, you can create a regression model that has  
18 explanatory variables that are designed to explain the  
19 dependent variable, which is whatever the measure you're  
20 interested in is.

21 And so in this case the regression models, of  
22 which panel data is one form, are trying to explain the  
23 crime rates in states, with specific focus on the  
24 right-to-carry law being the explanatory variable that  
25 you're most interested in for this study.

1 Q Okay. What is a statistically significant  
2 increase?

3 A Yeah. So in this work we are interested in  
4 seeing do we observe any change in crime in the aftermath  
5 of right-to-carry adoption. And so you could get a zero  
6 effect. You could get an increase positive, or you could  
7 get a decrease negative.

8 And one of the nice things about regression is  
9 it gives you two things. It not only -- it gives you a  
10 point estimate, which is the actual prediction for the --  
11 in this case, the impact of a right-to-carry law on  
12 crime, but it also tells you a standard error, which is  
13 how -- how precise that estimate is.

14 And the relationship between the estimate and  
15 the standard error is what allows you to make conclusions  
16 about statistical significance. And broadly, if the  
17 estimate is large relative to the standard error, then we  
18 put it out as more statistically significant.

19 Q So is there any set percentage that would be  
20 considered a statistically significant increase in the  
21 work you do?

22 A Yes. There are usual cutoffs that researchers  
23 can employ, and so I think in my paper I will put  
24 asterisks, identifying whether it's statistically  
25 significant at the .1 level or the .05 level or the .001

1 level. And those will give you an indication of how  
2 statistically significant the particular result is.

3 Some people don't like using those asterisks,  
4 and would like, you know, different sorts of descriptions  
5 of how significant the results are, but that's the one I  
6 used on this paper.

7 Q And how do you determine that number?

8 A So again, it's -- it's a statistical  
9 calculation that will look to the estimate that you have  
10 and the standard error. And as a very crude rule of  
11 thumb, if the estimated effect -- let's say you estimated  
12 crime went up by ten percent.

13 If the estimated effect is twice the size of  
14 the standard error -- so the standard error, let's say,  
15 is four percent -- that would have a ratio of 2.5. So  
16 ten divided by four.

17 And once you have that ratio, then you can look  
18 to a statistical table to tell you what level of  
19 significance you have. So anything over two is usually a  
20 sign that you're statistically significant at the .05  
21 level or sometimes the five percent level.

22 Q Okay. I'm going to give you a few terms, just  
23 going through to make sure that we're clear on what I'm  
24 talking about.

25 When I say license holder, would you understand

1 that to mean somebody who has been issued a concealed  
2 weapon permit?

3 A Yes.

4 Q And if I say CCW, does that term make sense to  
5 you?

6 A Concealed carry weapon.

7 Q Sure.

8 And that is the technical -- or the, you know,  
9 express definition, but it basically means a license,  
10 right? I know other states say CHL or something -- here  
11 in California we say CCW.

12 So if I happen to say that, I'll be referring  
13 to the license. Does that make sense?

14 A Yes.

15 Q So we're talking about panel data analysis.

16 Would it be fair to characterize your report  
17 and Exhibit B -- let me start over by first asking about  
18 your study.

19 Would it be fair to characterize your study  
20 that was attached as Exhibit B as a panel data analysis?

21 A It has two parts to it. So the first part sort  
22 of follows the prior literature, and just updates it to  
23 the most recent crime data available.

24 And then the second part is the synthetic  
25 controls analysis. So that is a separate type of

1 statistical approach.

2 Q So you did both a panel data analysis and a  
3 synthetic controls analysis?

4 A Yes.

5 Q And they both reach the same conclusion?

6 A They varied on some items, but they both reach  
7 the same conclusion on the impact of right-to-carry laws  
8 on violent crime. They came out differently on property  
9 crime.

10 Q And could you summarize your conclusion of what  
11 is the ultimate conclusion of both of those?

12 A Yes. So I mean, the take-away that I got from  
13 the research was that right-to-carry laws increased  
14 violent crime in the neighborhood of, you know, 13 to 15  
15 percent, and that comes from the synthetic controls  
16 assessment.

17 And so when I say 13 to 15 percent, just to be  
18 a little more precise, the pattern seems to be an  
19 incrementally rising violent crime effect, and since I  
20 looked for ten years after adoption, the tenth year  
21 effect was 13 to 15 percent, depending on which specific  
22 model one looked at.

23 And so that was what I took away as the  
24 strongest conclusion from the paper. The right-to-carry  
25 results are somewhat different in form, but essentially

1 were supportive of that rough conclusion if one looked at  
2 the models that I thought were the most appropriate,  
3 panel data models.

4 Q And for those models, how many regressions did  
5 you run?

6 A You know, essentially, what I tried to do was,  
7 you know, just do my own panel data model. I refer to  
8 that as DAW, for the initials of the three authors,  
9 Donohue, Aneja, and Weber.

10 And so I run a basic statistical model in two  
11 ways, a -- sometimes referred to as a dummy variable  
12 model, where you're just predicting an average change in  
13 crime in the aftermath of right-to-carry, and then a  
14 trend model that is trying to predict the change in the  
15 trend of crime in the aftermath.

16 Q Do both of those require running regressions?

17 A Yes.

18 Q Okay.

19 A Yeah. And so those would be two regressions  
20 that I would run for the right-to-carry estimates, using  
21 my model.

22 But then I did versions of those for both  
23 murder, violent crime, and property crime. And then I  
24 went to other people's published models to see if they  
25 would generate the same results. So everything I tried



1 to do with my model, then I would try to replicate with  
2 other published models to see if the results would come  
3 out the same.

4 Q Are you able to say how many regressions you  
5 ran?

6 A You know, I could -- I could count them up, but  
7 it would take me a while. So in just thinking about it,  
8 eight for the DAW model over the full period, and then I  
9 would also do eight for the Brennan Center model, eight  
10 for the Lott and Mustard model, eight for the Marvell and  
11 Moody model.

12 But I also then showed results for a limited  
13 time period in the aftermath of the crack cocaine  
14 epidemic. So I, you know, again, showed more regressions  
15 along those lines.

16 And then it depends on whether you consider  
17 synthetic controls to be in this category, but I have a  
18 series of estimates for them as well.

19 Q And what would those estimates be?

20 A So for the synthetic controls approach, it's  
21 sort of a two-stage analysis, that you would get an  
22 estimate for each individual state and then aggregate  
23 those into a single estimate for the impact for each year  
24 for ten years, which is the way I did the analysis.

25 And so, again, I did that for both the DAW

1 model as well as for the Brennan Center model and the  
2 Lott and Mustard and Marvell and Moody models.

3 Q Okay. Did you include all of those regressions  
4 in your -- in the DAW?

5 A Yes. So in the full paper, not in the expert  
6 report, they would all be included, but not in the more  
7 limited expert report.

8 Q So all regressions that you ran are  
9 contemplated in your paper, in your -- in DAW?

10 Should we just refer to it as DAW? Would that  
11 help?

12 A Whatever works for you is fine with me.

13 Q That seems to be your terminology, correct?

14 A Yes.

15 Q So all of the regressions you ran are  
16 contemplated in the DAW?

17 A You know, it's hard to know -- I literally  
18 haven't run a regression in years. Hard to know how much  
19 the staff was working away, but all of the ones that I  
20 looked at and evaluated appear in the paper, in, you  
21 know, the various versions of the paper that I've done.

22 Q So you had staff helping you run regressions --

23 A Yes.

24 Q -- for the DAW?

25 A Yes.

1 Q Did you rely on staff to present the  
2 regressions that you reviewed to you?

3 A Yes. I mean, I'm fortunate that I'm able to  
4 hire research assistants to actually, you know, run the  
5 regressions for me. So I don't have to do that myself.

6 Q Could they have -- and when I say the staff,  
7 your assistants.

8 Could they have withheld certain regressions  
9 without your knowledge?

10 A It's conceivable, because one never knows what  
11 someone does that you don't know, but they typically just  
12 do what I tell them to do. So they would then bring  
13 whatever I tell them to do to me.

14 Q What would be the effect of omitting  
15 regressions?

16 A You know --

17 MR. EISENBERG: Wait a minute. I'll just  
18 interpose an objection. Vague and ambiguous.

19 But you may answer.

20 THE WITNESS: Yeah. I mean, it's -- one could  
21 imagine a world where someone runs lots of regression  
22 analyses and gets results that they don't like and then  
23 buries them and then -- because there's always a certain  
24 amount of statistical noise in any of these models, if  
25 you run them enough different ways, you can bounce the

1 numbers in a way that, you know, some estimate will  
2 suddenly bounce in a certain direction, and if then you  
3 grab that one and say, oh, this is what I found, then you  
4 can get very misleading results.

5 BY MR. BRADY:

6 Q Did you do that in preparing the DAW?

7 A No. I mean, I really tried to be extremely  
8 careful in this way to sort of show -- you know, show  
9 estimates that I -- that I even think are not plausible,  
10 just in case somebody believes that they think that is a  
11 more plausible estimate. So I will always put into my  
12 paper things that I may find not plausible estimates, but  
13 I just want researchers to know the full scope of the  
14 results.

15 And I think one time Stephen Stigler at  
16 University of Chicago said, I want to see hands above the  
17 table in statistics, and by that I meant that he didn't  
18 want somebody so -- working in the background to obscure  
19 results and pick out very selected results because --  
20 because of the nature of statistical analysis, that there  
21 are these random variations, if you run enough  
22 regressions and then just pick out one that you like, you  
23 can really, really engineer results that are very  
24 misleading.

25 Q Do you recall seeing any regressions that

1 contradicted your conclusion in the DAW?

2 A You know, some of the regressions that I  
3 include in the paper using the panel data models are  
4 inconsistent with, certainly, the synthetic controls  
5 conclusions.

6 Q So some regressions are not consistent with  
7 your conclusion in DAW? Is that a fair statement?

8 A Yes.

9 Q What criteria did you use in choosing which  
10 regressions to include?

11 A You know, essentially, what I did was -- I  
12 wanted to, you know, choose the model I thought was the  
13 best, and that's what I referred to as DAW specification  
14 or model.

15 And then I wanted to give researchers --  
16 especially because there is this long history of  
17 uncertainty about the panel data estimates -- a sense of  
18 how robust the results would be if you ran other  
19 published versions of models that were trying to estimate  
20 the impact of right-to-carry laws.

21 And so I used the Brennan Center model and ran  
22 those results through, and those were extremely similar  
23 to my version. But I also used models that had been used  
24 by those who were advocating that right-to-carry laws  
25 reduced crime, to see what would happen if we ran their

1 models on the full data set that was now available to me.

2 Q I'm not sure if I heard what criteria you used  
3 in determining what regressions.

4 Could you -- are there specific criteria that  
5 you looked at, like this regression meets this criterion,  
6 et cetera, that you could articulate as to --

7 A Yeah. I mean, again, for my model, my  
8 preferred specification, this is something that I've been  
9 working on for a number of years, and, you know, I'm  
10 always reading what other people write.

11 And so I sort of looked across the board at  
12 crime models that people were using, not only for  
13 right-to-carry, but for other areas, and just thought,  
14 well, almost everything I've done in the past was really  
15 just sort of responsive to the literature. Maybe now I  
16 should, you know, sort of throw off what other people did  
17 and just say what do you think is the best model? And so  
18 that's what I did for the DAW model.

19 Having done that, though, I know that there's  
20 always going to be a concern in panel data, you know,  
21 have you cherry-picked the model in some way. And so I  
22 thought I would take, you know, another prominent crime  
23 model, which was the Brennan Center model, and sort of  
24 ran that through.

25 And then I said, and also, it would -- I'm sure

1 the public would be interested if they followed this  
2 debate over the years, what would the models of Lott and  
3 Mustard and Marvell and Moody show. So I included those.

4 Now, I've been critical of those models, but I  
5 still thought it would be useful to alert people to what  
6 those models -- those models that Lott and Mustard  
7 thought were the best ones and Marvell and Moody thought  
8 were the best ones -- estimated on the data set that I  
9 had created. So that was my selection criterion.

10 One, what did I think was best; and, two, what  
11 were other models that had been used to advocate the  
12 opposing view -- so those were Lott and Mustard and  
13 Marvell and Moody -- and what is just another general  
14 crime model that was sort of widely referred to in the  
15 literature.

16 Q What criteria did you think were best?

17 A Well, for me, you know, there were -- there are  
18 a lot of small decisions that you have to make when  
19 you're doing these analyses.

20 You know, for example, Lott and Mustard didn't  
21 include police and incarceration in their paper. And I  
22 have always included police and incarceration, because I  
23 think of those as two explanatory variables that play an  
24 important role in influencing crime.

25 So, you know, if you just go down the

1 explanatory variables that I include, you get a sense of  
2 the ones that I think were most appropriate. And, you  
3 know, you can do the same thing for the Lott and Mustard  
4 and Marvell and Moody, to see what they thought were most  
5 appropriate.

6 It's interesting how many choices you have to  
7 make to implement a statistical model. And that's why  
8 you're always concerned about the integrity of the  
9 researcher, because you don't want someone going through  
10 and tweaking the model and -- you know, literally, a  
11 hundred different ways, running a hundred different  
12 regressions, and then just showing you the one where the  
13 statistical noise bounced it.

14 Now, remember we talk about statistical  
15 significance. And so what that term actually means is,  
16 if you really had a zero effect, how likely is it that we  
17 would estimate a true effect? And -- well, I'm being  
18 ambiguous here.

19 If you really had a zero effect, how likely is  
20 it that your statistical estimate would suggest that  
21 there was a significant effect? And if you're using the  
22 five-percent level as your measure of statistical  
23 significance, it means five out of a hundred times you  
24 will get results that are ostensibly meaningful, even  
25 though there is no effect, just by the operation of



1 random chance.

2 And so if somebody is dishonest, they could run  
3 the model a hundred times and -- you know, about two and  
4 a half of those will be on one side, and you're  
5 estimating an increase in crime, for example. Two and a  
6 half percent would be on the other side, estimating a  
7 decrease.

8 And if you were dishonest, you could just show  
9 the best one that shows either the increase, if you  
10 wanted to show an increase, or a decrease, if you wanted  
11 to show a decrease. So that's one thing that is very  
12 important, I think, in this area, is that there be  
13 transparency and not an effort to take advantage of this  
14 random or stochastic component of the estimates, which  
15 can bounce around a little bit.

16 Q Did you only run regressions for states that  
17 didn't change their laws for ten years after an RTC law?

18 And just to be clear "RTC" is the term used for  
19 right-to-carry laws, right, so we understand each other?

20 A Yes.

21 Q And is that -- you only ran regressions for  
22 states that didn't change their laws for ten years after  
23 an RTC law was adopted?

24 A Well, for the panel data models, everything  
25 gets included in all of those. For the synthetic

1 controls models, what I did there was only identify what  
2 the estimated impact was for the ten years after  
3 right-to-carry adoption. And so any state that had not  
4 adopted a right-to-carry law in that ten-year period  
5 could be a potential control in doing the synthetic  
6 control analysis.

7 So for example, Wisconsin adopted a  
8 right-to-carry law in 2011. And that means if I'm trying  
9 to figure out the effect of the right-to-carry law in  
10 Texas, which adopted in 1996, I can consider Wisconsin as  
11 a potential synthetic control, because, for the period  
12 from 1996 to 2006, Wisconsin did not have a  
13 right-to-carry law in effect, and therefore, that is part  
14 of the potential cohort of controls for the synthetic  
15 control analysis of Texas.

16 Q So then for running regressions on the  
17 synthetic control analysis, you only considered -- you  
18 only ran regressions for states that didn't change their  
19 laws for ten years after a right-to-carry?

20 A Well, remember, all I'm trying to do is get an  
21 estimate for the impact on crime of any state that does  
22 change their right-to-carry law over my data period.

23 And so what I need to do, using the synthetic  
24 controls, is find states that are good control states to  
25 compare to the treatment state, the treatment state being

1 the state that adopts the right-to-carry law.

2 And so every state that adopted over my period,  
3 you know, before, I think, 2007, I come up with an  
4 estimate, and I show the estimated effect for each year  
5 up to ten years after they passed their right-to-carry  
6 law.

7 That help you?

8 Q Well, I'm really just asking a yes-or-no  
9 question.

10 A Oh, I'm sorry.

11 Q It's okay.

12 Did you only run regressions for states that  
13 didn't change their laws for ten years after an RTC law?

14 A No.

15 Q So you ran regressions for -- and we're talking  
16 about just for the synthetic controls.

17 The answer's still no, just for synthetic  
18 controls?

19 A Yes.

20 Q So you ran regressions on states that had --  
21 that didn't change their laws for less than ten years?

22 A Well, the thing is, for the synthetic controls,  
23 I came up with a synthetic control estimate for all of  
24 the 33 states that changed their right-to-carry law over  
25 my data period. And I would allow any state to be a

1 potential control as long as they didn't adopt a  
2 right-to-carry law in the ten years after the state that  
3 I was interested in.

4 Does that make sense?

5 Q Are you saying that you would not run a  
6 regression on a state that had a right-to-carry law in  
7 place for less than ten years if you were comparing it to  
8 a state that did have that for more than ten years?

9 A Well, for the -- for the synthetic controls  
10 analysis -- you know, Texas, for example, passed their  
11 law in 1996. So they had a right-to-carry law in effect  
12 for more than ten years. But I only estimated the effect  
13 for Texas and for every state for the ten years  
14 afterwards.

15 But every state that adopted a right-to-carry  
16 law I did come up with as long an estimate as I could.  
17 So if I had ten years post adoption, I'd have ten years  
18 of estimates. For a few states -- if they adopted in,  
19 let's say, 2007, I would only maybe have seven years of  
20 estimates. That data ended at 2014.

21 Q So then you did try running regressions for a  
22 set of years less than ten on at least some states?

23 A Yes. For a state that adopted so late in the  
24 data period, I would have less than ten years of  
25 post-adoption estimates.

1 Q And in running those, did you try using  
2 different combinations of control variables in generating  
3 that synthetic --

4 A Yes. So I tried to do the same thing that I  
5 did for the panel data; in that, you can -- you can use  
6 explanatory variables in the synthetic controls  
7 assessment as well as in the panel data evaluation.

8 So as we mentioned with respect to the panel  
9 data, I essentially used four different schemes, one  
10 being, you know, my preferred specification, DAW, then  
11 the Brennan Center, then the Lott and Mustard and then  
12 the Marvell and Moody, and so I went through that same  
13 assessment for the synthetic controls as well.

14 Q So I'd like to talk a little bit about fixed  
15 effects, just --

16 MR. EISENBERG: If I can interject. So we've been  
17 going an hour and five minutes. I'm wondering if anybody  
18 wants a break.

19 BY MR. BRADY:

20 Q You're free to request a break at any time.

21 MR. EISENBERG: Or keep going. Just wanted to  
22 raise that.

23 BY MR. BRADY:

24 Q It's your call. There's -- the restroom is out  
25 there. The bar is in here. I'm sure Mr. Eisenberg would

1 prefer that you not partake in the bar until post  
2 deposition.

3 A I'm fine for now.

4 MR. EISENBERG: Okay.

5 THE WITNESS: I'll jump in if I feel all that  
6 coffee I drank is getting to me.

7 BY MR. BRADY:

8 Q Okay. So you indicate that your study accounts  
9 for both geographic and time fixed effects.

10 Is that accurate?

11 A Yeah. The panel data analysis does that, yes.

12 Q Okay. I think I already asked you this, but  
13 just to clarify, do all panel data analysis account for  
14 both --

15 A They all can, but sometimes they don't.

16 Q What would be a good reason to omit fixed  
17 effects?

18 A You know, if you really felt that your  
19 explanatory variables captured the relevant information,  
20 then you wouldn't need to go to a fixed effect.

21 And so, for example, if I could do like a  
22 cross-section analysis of, let's say, the 50 states and  
23 really predict extremely well, based on things like  
24 police and incarceration, demographics and, you know,  
25 employment status -- if I could predict the crime rates

1 really well, then I would say, well, maybe you don't need  
2 fixed effects.

3 But it turns out, even controlling for all the  
4 things that I just mentioned -- you know, San Francisco  
5 has a lot lower crime rate than, you know, St. Louis.  
6 Not a good example. But San Francisco has a lot lower  
7 crime rate than many other states, and it's an enduringly  
8 lower crime rate that's not well explained by just those  
9 factors.

10 So basically, the test would be, if the factors  
11 that you can easily measure really capture all of the  
12 variation in the cross-section, then you'd say we don't  
13 need fixed effects. If they can't capture it, then you  
14 would say probably helpful to have the fixed effects in  
15 there.

16 Q Is it ever unhelpful to have -- to consider  
17 fixed effects?

18 A Well, it's -- it turns out that regression  
19 follows the normal economic laws as there's no free  
20 lunch. So every time you add an explanatory variable,  
21 there are -- there are costs to it.

22 It can -- there's an interesting paper by Gary  
23 King at Harvard, who's a university professor at Harvard,  
24 and he said something like, you know, every variable that  
25 you add to a model makes it harder to get a precise

1 estimate of the thing that you're most interested in.

2 And so there's this art of good statistics,  
3 where you don't want to leave out something that's  
4 important, but you don't want to add in a lot of things  
5 that are unimportant, because there are going to be costs  
6 in either of those choices.

7 Q Could omitting one fixed effect significantly  
8 alter results?

9 A I mean, are you saying like omitting either  
10 state or year fixed effects?

11 Q Yeah.

12 So if you just used state and you don't use  
13 time --

14 A Yeah.

15 Q -- could that be -- result in a drastically  
16 different outcome than if you used both state and time?

17 A It could, and it goes back to this point that  
18 we talked about a second ago.

19 The more your included explanatory variables do  
20 a good job of capturing the variation in your -- in this  
21 case crime measure, the less you need to rely on state  
22 and year fixed effects.

23 And it does turn out in the crime arena that  
24 it's harder to fully articulate the factors that explain  
25 crime than in some arenas. And therefore, you would



1 typically use state and year fixed effects to capture  
2 what you're not able to explicitly explain.

3 Q So in at least some instances, omitting one  
4 fixed effect could significantly change the outcome?

5 A It could, yes.

6 Q Could it ever result in the opposite  
7 conclusion? Or outcome, I'm sorry.

8 A Yeah, I mean, I think -- I take the question to  
9 mean if you run a state and year -- and if you run a  
10 panel data model with state and year fixed effects and  
11 conclude that, let's say, crime is going up by ten  
12 percent, if you left out the state or year fixed effects,  
13 could it alter that conclusion. And yes, the answer is  
14 it could alter that conclusion.

15 Q I was asking could it be the opposite? So to  
16 use your example that says crime is going up by ten  
17 percent, could it ever say that crime went down by ten  
18 percent by --

19 A It certainly could if the factor that is being  
20 captured by the fixed effect, you know, is powerfully  
21 correlated with whether the state adopts a right-to-carry  
22 law. If it's uncorrelated with that, then it would never  
23 reverse the sign. It might move it towards zero, but if  
24 it's powerfully correlated, then it could reverse the  
25 sign.

1 Q Okay. In creating the DAW, you consider a  
2 report from the National Research Council; is that  
3 correct?

4 A Yes.

5 Q You state in your report at Page 3, Paragraph  
6 4, that that report, quote, "Emphatically rejected the  
7 conclusion" -- I'm sorry, "Emphatically rejected," close  
8 quote, the conclusion, quote, "that RTC laws could  
9 actually reduce violent crime," close quote.

10 Do you see that?

11 A Yeah. So the --

12 Q Is that an accurate description of your  
13 assessment in this report?

14 A Yeah. I'm just saying that they emphatically  
15 rejected the conclusion that RTC laws reduce violent  
16 crime.

17 Q Okay. Where exactly in the NRC report does the  
18 committee reject that notion?

19 A In the -- probably the most precise language  
20 was the -- the committee had a disagreement -- I think it  
21 was 16 to 1, where one member of the committee said,  
22 yeah, the panel data results are all over the map, but I  
23 think the murder results are consistent, and that  
24 supports the notion that right-to-carry laws reduce  
25 murder.

1           And the other 16 members said, We emphatically  
2     reject this conclusion, because the -- it is without  
3     scientific support, or there's no statistical basis for  
4     this conclusion. So that was the language that I was  
5     referring to when I wrote that sentence.

6           Q   So was it an emphatic rejection of the  
7     dissent's views?

8           A   Yeah, it was an emphatic rejection of the  
9     conclusion that the evidence suggested right-to-carry  
10    laws, in that case, reduced murder.

11          Q   Reduced murder.

12                You say that they rejected the conclusion that  
13    RTC laws could actually reduce violent crime, though.

14                Is that right?

15          A   Yes. And just to be clear, the dissenter in  
16    that case -- who you'll be happy to know was a lifetime  
17    NRA member -- joined NRA at age 12. He told me -- he  
18    said, Yeah, the results are much too ambiguous and  
19    conflicting to draw any conclusion about overall violent  
20    crime or the individual categories of it, but I think the  
21    evidence supports the conclusion that murder is reduced  
22    by right-to-carry laws.

23                And the state said, Yeah, we agree with you --  
24    they used this precise language -- we agree with you that  
25    the evidence is too ambiguous on these other factors, but

1 we emphatically reject your conclusion about murder,  
2 because we think the evidence is as ambiguous for murder  
3 as it is for these other categories.

4 Q So is it fair to say they were emphatically  
5 rejecting the definitive claim that right-to-carry laws  
6 reduce murder?

7 A Yes.

8 Q But not -- you could not say that about the  
9 report saying that about violent crime; is that correct?

10 MR. EISENBERG: Objection. Vague and ambiguous  
11 with double negatives.

12 BY MR. BRADY:

13 Q Okay. Let me rephrase.

14 The council made no emphatic rejection of RTC  
15 laws' effect on violent crime; is that correct?

16 A The committee was unanimous on the conclusion  
17 that the evidence available at that time was not strong  
18 enough to draw conclusion on any crime category other  
19 than murder.

20 The committee was split on the murder, 16 to 1,  
21 where they said -- where the one said, We think there's  
22 evidence -- or I think there's evidence, he said, that  
23 murder is reduced by right-to-carry laws, and the  
24 committee said the scientific evidence does not support  
25 that conclusion.

1 Q Did the NRC report make any other conclusions  
2 about RTC laws that you're aware of?

3 A You know, for my purposes, the main focus of  
4 the report that I was interested in -- the report is  
5 called "Firearms and Violence," and so it was a broader  
6 examination than simply right-to-carry laws, but I was  
7 focused on the chapter that tried to estimate what is the  
8 impact of right-to-carry laws on crime.

9 Q So you're not aware of any other conclusions?

10 A You know, it's a long report. I'm certainly  
11 broadly familiar, and as the National Research Council  
12 reported, it's usually filled with "and we need more  
13 evidence, using better statistical models, to draw firmer  
14 conclusions."

15 But just off the top of my head, I'm not -- I'm  
16 not sure if I -- if I'm aware of other specific findings.

17 Q Isn't that the conclusion that they reached  
18 with right-to-carry laws, that they simply needed more --

19 A Yes.

20 Q -- research?

21 A Yeah, they felt that you need more data and,  
22 hopefully, better statistical approaches.

23 MR. BRADY: I actually have more this time.

24 Mark this as 4.

25 (Exhibit 4 was marked.)

1 MR. EISENBERG: Sean, is this supposed to be four  
2 pages?

3 MR. BRADY: I believe so. Let me just confirm.

4 Yes. I believe. Let me just confirm.

5 Yes.

6 BY MR. BRADY:

7 Q So do you recognize this?

8 A Yes.

9 Q Is this the NRC report, or a portion of the NRC  
10 report?

11 A Yeah, this is the cover page and then the other  
12 pages from the NRC report.

13 Q I'll direct you to the third page, under the  
14 section "Conclusions."

15 Could you read the last sentence?

16 A On the third page?

17 Q Yes, sir.

18 A "Thus the committee concludes that, with the  
19 current evidence, it is not possible to determine that  
20 there is a causal link between the passage of  
21 right-to-carry laws and crime rates.

22 But the thing is, if I'm reading something,  
23 then we can know that you're wrong. If I'm just  
24 speaking, no one will ever know if you're wrong.

25 Q So can you turn now to the last page.

1 A Yes.

2 Q And read the first sentence of the last  
3 paragraph.

4 A "It is also the committee's view that  
5 additional analysis along the lines of the current" --

6 Q I'm sorry, I was asking for the first sentence  
7 in the last paragraph.

8 A Yeah. "If further headway is to be made on  
9 this question, new analytical approaches and data sets  
10 will need to be used."

11 Q What is your understanding of these conclusions  
12 or these statements?

13 A Well, essentially, the panel was saying, where  
14 we are now, looking at data through the year 2000, the  
15 results are ambiguous. Some evidence suggests decrease  
16 in crime; some suggest increase in crime. And we think  
17 there's not enough strong evidentiary support to make any  
18 conclusion either way on what the impact of  
19 right-to-carry laws is on crime.

20 Q So then is it fair to say that the NRC's  
21 conclusion was that more research needs to be done?

22 A Yes.

23 Q And that they were not make -- the committee  
24 was not making any judgment on whether right-to-carry  
25 laws actually do or do not reduce violent crime?

1 MR. EISENBERG: Objection. Vague and ambiguous.

2 But you can answer.

3 THE WITNESS: They were trying to say, We, as a  
4 committee, feel that we don't know the answer at this  
5 point what is the impact of right-to-carry laws on crime,  
6 and, you know, more data and new and better statistical  
7 techniques are likely to be necessary before that  
8 conclusion will change.

9 BY MR. BRADY:

10 Q Did you rely on this conclusion by the NRC  
11 report in making your conclusions in your study?

12 A Yeah, and in fact, the -- that conclusion is  
13 what led me to the reliance on the synthetic controls  
14 approach. Because again, one of my colleagues, a very  
15 brilliant empiricist at Stanford named Dan Ho, H-o, had  
16 been looking into synthetic controls and encouraged me to  
17 use this as a new and better tool to identify the causal  
18 impact of right-to-carry laws.

19 And so that became sort of the motivation  
20 behind the paper that is now released as the NBER working  
21 paper.

22 Q I'd like to direct you to same page, same  
23 paragraph of your report, Page 3, Paragraph 4. Right  
24 after Footnote 7, starting with, "Nothing that the  
25 estimated effects of RTC laws" -- or I'm sorry, let me



1 strike that.

2 "Noting that the estimated effects of RTC laws  
3 were highly sensitive to the particular choice of  
4 explanatory variables."

5 Is that -- would you consider that a conclusion  
6 of the NRC report, that the estimated effects of  
7 right-to-carry laws are highly sensitive to the  
8 particular choice of explanatory variables?

9 MR. EISENBERG: Objection. Are you isolating that  
10 part of the sentence, or do you want him to take into  
11 account the rest of the sentence?

12 BY MR. BRADY:

13 Q Well, so my understanding is -- correct me if  
14 I'm wrong -- this is a description of what they said.  
15 And I guess it might be easier to go to -- refer to the  
16 exhibit.

17 Let me ask you this. Did the NRC report  
18 conclude that the estimated effects of RTC laws were  
19 highly sensitive to the particular choice of explanatory  
20 variables?

21 A Yes.

22 Q Okay. Did you take that into account in  
23 preparing your report?

24 A Yes.

25 Q Now, you mentioned that the NRC report

1 considered other firearm restrictions beyond RTC laws.

2 Is that correct?

3 A That's right.

4 Q Do you recall how many?

5 A You know, I think they spoke about, you know,  
6 quite an array of regulations and, you know, things like  
7 safe storage laws, et cetera.

8 But it turned out that this is -- this area had  
9 richer research foundation than many others. So they  
10 spent a lot more time focused on this one question than  
11 they were able to do on any other single issue.

12 Q Do you recall, of those laws that -- the other  
13 firearm restriction laws that the NRC committee  
14 considered, do you recall how many, if any, the NRC  
15 concluded would reduce violent crime?

16 A You know, I don't think the NRC report took a  
17 position on any -- on the impact of any particular law or  
18 policy. I think it was much more sort of a review of the  
19 literature and then a call for more data and, you know,  
20 new statistical techniques.

21 Q Including -- is that your view for the RTC laws  
22 portion of the report as well?

23 A Yes. I think that -- I think that's what they  
24 were trying to say, that we don't have enough evidence at  
25 this point to draw a firm conclusion on the impact of

1 right-to-carry laws.

2 Q Does that conclusion sound consistent with your  
3 description that they emphatically rejected the effect of  
4 RTC laws?

5 A Oh, you know, I'm hoping I didn't mislead in  
6 any way. I was trying to say they emphatically rejected  
7 the conclusion that right-to-carry laws reduce murder.

8 So that's all I was trying to say, that, you  
9 know, John Lott sort of authored the position that the  
10 impact of right-to-carry laws was very suppressive of  
11 crime overall, and that what the committee ended up  
12 saying, you know, the statistical evidence at this point  
13 does not support that conclusion.

14 Q So then it would be more accurate to strike  
15 "violent crime" from your report, where it says, "The NRC  
16 report emphatically rejected the conclusion that RTC laws  
17 could actually reduce violent crime," and replace  
18 "violent crime" with "murder"?

19 MR. EISENBERG: Objection. Argumentative.

20 THE WITNESS: Yeah, I mean, I think -- I think  
21 that the statement is correct for the following reason.  
22 Because one of the main reasons that they undertook the  
23 study was that there was discontent in the academic  
24 community that state legislators were relying on Lott's  
25 study when many people thought that Lott's study was not

1 a credible study.

2 And so the panel addressed this and sort of  
3 uniformly said, Well, we all agree that what Lott has  
4 said about, you know, every category of crime is  
5 inaccurate, except there's a difference of opinion, 16 to  
6 1, on whether murder has an impact. And the one said it  
7 did, and the 16 emphatically rejected his conclusion.

8 But I think the overall theme is everybody  
9 agreed that there was no basis for concluding that crime,  
10 other than murder, fell, and only one of the 17 thought  
11 that there was a basis for concluding that murder fell in  
12 the wake of adoption of right-to-carry laws.

13 BY MR. BRADY:

14 Q So then by your logic, couldn't one say that  
15 the panel emphatically rejected the claim that any of the  
16 gun controls it was considering worked?

17 MR. EISENBERG: Objection. Argumentative and  
18 going outside the subject matter on which the expert was  
19 retained to testify.

20 But you may answer if you can.

21 THE WITNESS: Yeah, I'm not sure that I would -- I  
22 would go that far.

23 BY MR. BRADY:

24 Q You do not agree that, by your logic, if the  
25 committee agreed that more research is required for all

1 of these --

2 A Yeah.

3 Q That's correct, right?

4 They agreed that more research is required for  
5 the RTC laws, correct?

6 A Yes.

7 Q But they do not emphatically reject the notion  
8 that these other gun-control laws worked, but they do  
9 reject that RTC laws reduce crime?

10 MR. EISENBERG: Objection. Compound. And I'll  
11 reiterate the prior objections about outside the scope.

12 But you may answer if you understand the  
13 question.

14 THE WITNESS: Yeah. I'm just -- I'm just trying  
15 to get my head around the question fully.

16 But all I was trying to say there is that there  
17 was a very strong claim that -- by John Lott that  
18 right-to-carry laws reduced crime, and there was  
19 unanimity that his study did not establish that, except  
20 for the murder question, where it was 16 to 1 to say that  
21 we believe that John Lott did not establish that.

22 So they were in a sense emphatically rejecting  
23 Lott's conclusion and saying we really need more and  
24 better data before we can draw any credible conclusion.

25 BY MR. BRADY:

1 Q Okay. To be clear, the NRC report did not  
2 expressly support any of the laws it was considering?

3 Is that accurate?

4 MR. EISENBERG: Again, I'll just make a standing  
5 objection about outside the scope to the extent you're  
6 asking about all those other than right-to-carry laws.

7 MR. BRADY: Okay. I'll strike it.

8 Q Do you know this, though? How many of the  
9 other laws being considered in the NRC report generated a  
10 dissent?

11 A As far as I know, there was only one dissent.  
12 In fact, it's pretty unusual that there's ever a dissent  
13 in the NRC reports.

14 Q Are you aware of any other dissents?

15 A Not off the top of my head.

16 Q So you couldn't say how often a dissent is  
17 generated?

18 A I mean, I think it's unusual, and I know --  
19 Wilson, you know, commented about it being an unusual  
20 thing for him to have done.

21 Q All right. Do you know how many published  
22 studies there are on the impacts of RTC laws?

23 A You know, there are a lot now. I don't know  
24 the general number, but -- I've done 11, I think.

25 Q So you account for about a dozen? So all the

1 others -- are we talking about dozens? Scores?  
2 Hundreds? Would you feel comfortable --

3 A You know, it's hard to know, but maybe 70  
4 others or something.

5 Q Okay.

6 A It's a number.

7 Q Okay. How many do you think you consider --  
8 how many of those do you think you considered in  
9 preparing the -- is it DAW?

10 A (No audible response)

11 Q The DAW, yes. I'm going to write that right  
12 here. Sorry.

13 A You know, I -- I try to -- I try to consider  
14 all of them, you know. Every time I see a paper, I like  
15 to read it and think about what they did and, you know,  
16 is there anything that we learn from this or, you know,  
17 sometimes you say, oh, this is not the right way to go.

18 But, you know, sometimes you say, oh, you know,  
19 I got to think about that, or isn't that result  
20 interesting, or isn't that technique that they're using  
21 interesting.

22 Q Of that universe of 70 or so, you only selected  
23 some to be in your report, correct?

24 MR. EISENBERG: Objection. Lacks foundation,  
25 assumes that all those studies that were referred to use

1 the same type of statistical techniques.

2 THE WITNESS: I did select a subset.

3 BY MR. BRADY:

4 Q One of those studies is the Zimmerman 2015  
5 study; is that correct?

6 A Yes.

7 Q Why did you rely on that study in particular?

8 A You know, there were a couple of reasons. One  
9 is that Zimmerman was a coauthor of John Lott. They  
10 published papers on right-to-carry together. And  
11 sometimes there's a feeling that, you know, some  
12 researchers in this area are sort of biased in a certain  
13 direction, and so the fact that Zimmerman had coauthored  
14 with John Lott on right-to-carry stuff, I thought, at  
15 least eliminated any taint that existed there.

16 It also had one other feature -- I don't know  
17 if -- I don't know if he mentioned this, but it had one  
18 attractive feature in it, which is that one of the -- one  
19 of the real problems in right-to-carry literature has  
20 been the crack cocaine issue. And that's one of those  
21 issues that it's hard to get a particular explanatory  
22 measure that captures the influence of crack on crime in  
23 a certain state in a certain year.

24 And so the thing that I liked about the  
25 Zimmerman paper was -- I believe he did the study from



1 1999 to 2010. And that was pretty much after the impact  
2 of crack had subsided. So you're getting sort of a  
3 post-crack look at what the impact of right-to-carry laws  
4 is. And so -- and in part because -- I think that that  
5 is at least worth thinking about.

6 I did my own analysis. I think I did it from  
7 2000 to 2014, because if you look at the national crime  
8 pattern, it really flattened out after 2000. And so  
9 that's the thing I liked about the Zimmerman paper, that  
10 it -- it takes crack off the table to a large extent.

11 I think I did it a little bit more cleanly, and  
12 I had four years of extra data, but there was that  
13 similarity.

14 Q Okay. So would it be fair to say that the  
15 Zimmerman study is more reliable because of those  
16 attributes?

17 A You know, as we said, almost everything you do  
18 in this area, there's going to be a tradeoff.

19 So the good part of Zimmerman's paper is it's  
20 post -- largely post crack. I would have started a year  
21 later, but he didn't have as much data as I had. So  
22 that's the good part.

23 The bad part is that you had a shorter period  
24 of time, and you also have fewer states adopting. I  
25 think there were only maybe eight states that adopted

1 over the period that he looked at. And so while I'm  
2 getting estimates based on 33 states, he's getting  
3 estimates based on eight states.

4 So the sort of big lesson in statistics is, you  
5 know, finding the most helpful empirical strategies,  
6 because when you move in one direction, you may gain  
7 something, but there's always the potential you're losing  
8 something else, and what he lost was only a narrower set  
9 of states were being evaluated.

10 Q Beyond that flaw, if you will, do you find  
11 anything else objectionable about the Zimmerman study?

12 A You know what? I'd have to look back a little  
13 more carefully to see exactly, you know, what choices he  
14 was making.

15 Off the top of my head, I don't recall, but  
16 I -- I think one thing that was useful or, you know --  
17 three things, I think, were useful about the Zimmerman  
18 study. One, it was at least an opportunity to look at  
19 the right-to-carry issue without the problem of crack.

20 Two, it was done by someone who had coauthored  
21 with Lott and was sort of supportive of Lott in general.  
22 And therefore, that sort of undermined the fear that  
23 exists in this literature that someone may be biased in a  
24 certain direction.

25 And then three, it sort of undermined the claim

1 that sometimes Lott and others will say there's a -- you  
2 know, not to use a recent result is unusual, because he  
3 finds that crime goes up, and I sort of pointed out a  
4 number of other papers have also found that effect.

5 Q Does Zimmerman account for both types of fixed  
6 effects?

7 A That's a good question. I would have to look  
8 back at what he did. Certainly, when I show my results  
9 for the same data period -- or slightly differentiated  
10 data period from 2000 to 2014, I do include that.

11 Q So in general, you feel Zimmerman's work is  
12 trustworthy, reliable?

13 A You know, I'm a sort of a hard critic. So it's  
14 hard for me to buy onto anybody's study without doing my  
15 own work. And -- so I, you know -- in general, I like to  
16 try to replicate somebody's results before I would be  
17 fully comfortable with saying I adopt their methodology  
18 or something like that.

19 Q Okay. I refer you to Page 7 of Exhibit 2.

20 And I guess going onto Page 8.

21 MR. EISENBERG: You got these highlighted  
22 sentences?

23 BY MR. BRADY:

24 Q Yeah.

25 Can you read the highlighted portion, please?

1 A So this is -- is this my expert report?

2 Q Yes.

3 A Oh, okay.

4 "Zimmerman describes his finding as follows.

5 The shall-issue coefficient takes a positive sign in all  
6 regressions save for the rape model and is statistically  
7 significant in the murder, robbery, assault, burglary,  
8 and larceny models. These latter findings may imply that  
9 the passage of shall-issue laws increases the propensity  
10 for crime, as some recent research has suggested."

11 Q And that's a quote from Zimmerman's study,  
12 correct?

13 A Yes, it is.

14 Q And the only part you left out, which I don't  
15 blame you, is the "e.g., Aneja, Donohue & Zhang 2012,"  
16 referring to your -- that's referring to your study,  
17 correct?

18 A The yellow didn't go over that. So I ignored  
19 that.

20 Q So that's my fault, then.

21 I'd like to now refer you to Footnote 9 of  
22 Exhibit 2.

23 Can you read that for me, please.

24 A "See the discussion of Zimmerman below, which  
25 supports my finding that right-to-carry laws increase

1 crime."

2 Q So is it your view that Zimmerman unequivocally  
3 supports your finding that RTC laws increase crime?

4 MR. EISENBERG: Objection. Argumentative,  
5 ambiguous as to "unequivocally."

6 THE WITNESS: Yeah, I was just saying, you know,  
7 see the discussion of Zimmerman, which does support the  
8 finding. So I quoted the passage where he said this  
9 model shows -- or suggests that right-to-carry laws  
10 increase crime. That's all I'm saying.

11 BY MR. BRADY:

12 Q So it's your view that Zimmerman does  
13 support -- this Zimmerman study does support your  
14 findings that RTC laws increase crime?

15 A He shows the statistical models that generate  
16 that result. That's all I was saying.

17 MR. BRADY: Exhibit 5.

18 (Exhibit 5 was marked.)

19 MR. BRADY: This is Exhibit 5.

20 MR. EISENBERG: Should we mark the version with  
21 the highlighting as a separate exhibit?

22 MR. BRADY: If you would like to.

23 MR. EISENBERG: May as well. We could make that  
24 one --

25 MR. BRADY: Mark that as Exhibit 5 and mark this

1 as Exhibit 6.

2 MR. EISENBERG: Yeah, it could be 5 or 6, whatever  
3 works.

4 (Exhibit 6 was marked.)

5 (Discussion off the record)

6 BY MR. BRADY:

7 Q So lost my place. If you give me one minute,  
8 please.

9 MR. BRADY: We're going to have to take a break  
10 really quick. I'm sorry. I didn't mark what I wanted  
11 to.

12 So can we take a quick break? You mind?

13 MR. EISENBERG: No, not at all.

14 (Brief recess taken.)

15 MR. EISENBERG: As I just mentioned a second ago,  
16 Professor Donohue apparently misspoke when he was giving  
17 you the numbers for the various conventions as to what is  
18 statistically significant.

19 So if you would just -- if you would want to  
20 restate the ten percent, the five percent in  
21 fractional -- sorry, in decimal form.

22 THE WITNESS: Yeah.

23 MR. EISENBERG: So if you could go ahead and state  
24 it.

25 THE WITNESS: Okay. Yeah, I mean, if you look at

1 any of the tables, like Table 1 in the report, which is  
2 on Page 6, at the bottom it shows the conventional levels  
3 of statistical significance that I was using to demarcate  
4 statistical significance of various estimates.

5 And as the table shows it's .1, .05 and .01.

6 MR. EISENBERG: And that was all. You can resume  
7 questioning.

8 MR. BRADY: You know what? I believe I left my  
9 outline in my office. Be right back.

10 MR. EISENBERG: So should we just go off the  
11 record for a minute?

12 (Brief recess taken.)

13 BY MR. BRADY:

14 Q All right. Before we went off the record, I  
15 marked as Exhibit 5 this report.

16 This is the Zimmerman report that we have been  
17 speaking about, correct?

18 A (No audible response)

19 Q Can you turn to page -- well, 71 in the upper  
20 right-hand corner. I know it's small print.

21 A Yeah.

22 Q Okay. Can you read to yourself this  
23 highlighted portion?

24 A Okay.

25 MR. EISENBERG: Just to make the record clear,

1 it's the part on Page 71, left-hand column, "The-shall  
2 issue coefficient takes a positive sign," dot, dot, dot.

3 MR. BRADY: Correct.

4 MR. EISENBERG: And it goes on for the whole  
5 paragraph?

6 MR. BRADY: Just right up until that blue mark.

7 MR. EISENBERG: Okay.

8 THE WITNESS: Yes.

9 MR. EISENBERG: You've got a blue mark after the  
10 sentences that ends in "suggested"?

11 MR. BRADY: Correct.

12 Q I just want you --

13 MR. EISENBERG: Wait. Is that actually a --

14 MR. BRADY: Yeah, where it suggests.

15 Q I just want you to confirm that that is the  
16 quote that you included in your report.

17 A Yes.

18 Q That we just -- the quote that we just got done  
19 discussing, correct?

20 A Yes, yes, yes.

21 Q Can you read the sentence immediately following  
22 that quote aloud?

23 A Yes. "However, as the shall-issue law impact  
24 is being identified from only eight state changes in the  
25 data, it is difficult to give any strong causal



1 interpretation to these estimates."

2 Q Have you seen that sentence before?

3 A Yes.

4 Q You omitted it from your report, correct?

5 A Yes.

6 Q Why did you do that?

7 A Well, as -- I did say in our discussion that  
8 you get benefits from looking at certain time periods and  
9 we also have costs, and one of the costs is that you're  
10 only getting estimates for eight states.

11 And so I made that point, and I didn't think  
12 his language was so memorable that I needed to quote it.  
13 But I did make that point.

14 Q What's your understanding of why Zimmerman  
15 cautioned against reaching any, quote, "strong causal  
16 interpretations," close quote, based on his work?

17 MR. EISENBERG: Objection. Calls for speculation.

18 THE WITNESS: Yeah, I mean, it's hard for me to  
19 know why he put that --

20 BY MR. BRADY:

21 Q No, let me ask you how do you read that  
22 caution?

23 A Yeah. I mean, the way I considered it is he's  
24 saying, I'm not giving you an estimate for every state.  
25 I'm just giving you an estimate for eight states.

1 I mean, I would put in another caution, which  
2 is that you're -- you know, again, you've got this  
3 benefit that you're not looking at crack-period changes  
4 in right-to-carry law. So that makes your estimates  
5 better, but again, it's a limited period of time, and he  
6 has only eight states that he's able to estimate an  
7 effect on.

8 You know, again, it's this tradeoff. You have  
9 to decide -- I mean, if I really had the perfect answer  
10 on any one state, I'd be delighted. So it's not that  
11 it's only eight states that I think is the problem.

12 But everything always becomes a tradeoff in how  
13 much you're going to rely on the particular study and  
14 particular finding. And so he's saying there are only  
15 eight states here. So that's a reason for some caution.

16 Q Is it fair to say he was describing his study  
17 as not being the basis to make any conclusions about the  
18 effects of right-to-carry laws?

19 MR. EISENBERG: Again, calls for speculation.

20 THE WITNESS: Yeah, I'm -- I'm not exactly sure,  
21 because Zimmerman actually contacted me just yesterday,  
22 and I think he is -- he has been criticized for this  
23 study by John Lott, and I think he's -- he's now trying  
24 to validate or strengthen his findings.

25 So I'm not quite sure exactly -- I'm sure he's

1 going to write something soon about his latest view on  
2 right-to-carry. But I know there's something going on  
3 right now, but I'm not fully privy to what his thinking  
4 is, other than I think he's annoyed at John Lott for  
5 criticizing him.

6 MR. BRADY: Okay. 7?

7 THE REPORTER: 7 is next.

8 MR. BRADY: Like to mark this as Exhibit 7.

9 (Exhibit 7 was marked.)

10 BY MR. BRADY:

11 Q I will represent to you that this -- all this  
12 is is Table 4 taken out of the Zimmerman -- isolated from  
13 the Zimmerman report. So --

14 A Yes, yes.

15 Q -- it's just easily findable. It's the same  
16 one that you would see in the Zimmerman report. If I  
17 knew what page I would tell you, but --

18 A Yeah.

19 Q So have you seen this table?

20 A Yes.

21 Q Do you refer to this table in your report?

22 A I do not. I think I was referring to Table 3.  
23 This is Table 4.

24 Q I think I gave you my copy of the report.

25 Can I see it?

1 A Oh, sure. Is this it? Yeah.

2 Q Oh, no, the -- your report.

3 A Oh, my report.

4 Q Sorry, we got a lot of papers floating around  
5 here.

6 A No worries.

7 Q Okay. You do indeed refer to Table 3.

8 You refer to -- in your report to Zimmerman  
9 using the instrument approach; is that correct?

10 A I don't recall that.

11 Q Do you know whether Zimmerman used the  
12 instrument approach in --

13 A I mean, it looks like in Table 4 he may have  
14 done that.

15 Q Can you explain what the instrument approach  
16 is?

17 A Yes. Essentially, it's sort of an interesting  
18 statistical tool. I mean, the example I like to give in  
19 explaining instruments is from my coauthor, Steve  
20 Levitt's really fun paper, where he was trying to  
21 estimate the impact of police on crime.

22 And what he noted -- and it's a tough -- it's a  
23 tough thing to estimate. Because when crime goes up,  
24 people tend to hire more police. And there were actually  
25 a number of studies that concluded that police increase

1 crime, because they were doing some sort of  
2 unsophisticated study that correlated the higher crime  
3 rates with the higher number of police.

4 And so Steve Levitt, my coauthor, said if we  
5 can come up with a good instrument, we may be able to get  
6 a better estimate. And so the idea for an instrument is  
7 can you find something that causes police to jump up sort  
8 of exogenously, rather than part an endogenous process.  
9 So rather than police going up simply because crime is  
10 going up, is there anything that, like, somehow injects  
11 police into a system that's already in place.

12 And what he found is in mayoral election years,  
13 mayors tend to put more police on staff as a way to  
14 dampen down crime. And so the instrument was the mayoral  
15 election years. And it allows you to get a better  
16 estimate of the impact of police on crime than you would  
17 get just with an uninstrumented panel data analysis.

18 So that's the idea behind instruments. You're  
19 trying to come up with something that is correlated with  
20 the thing that you're interested in but doesn't impact  
21 crime except through this instrumental mechanism.

22 And so in Levitt's paper the instrument was  
23 mayoral election year. And the -- for the instrumental  
24 variable approach to work, the mayoral election year has  
25 to influence the number of police but not otherwise

1 influence crime except for its influence on the number of  
2 police. So that's what instruments is trying to do.

3 Q Okay. Did you use the instrument approach in  
4 your report?

5 A I did not. It's a demanding approach, in the  
6 sense that you really need an unusual thing to be true,  
7 which is you've got some factor that influences police,  
8 or whatever responsive variable you're interested in, but  
9 doesn't influence crime directly except for its influence  
10 on police.

11 And so in a crime realm, it's very hard to find  
12 good instruments that meet that definition, and if you  
13 don't have a good instrument, very bad things can happen.  
14 Your estimates can blow up very wildly.

15 And -- but, you know -- so there are some  
16 clever papers. Like one paper tries to use the terror  
17 alert level as a way to see what happens to crime,  
18 because, you know, suddenly there are more police on the  
19 street when the terror alert rises, and can we see what  
20 happens to crime.

21 But that's a very specific and unusual event,  
22 and I wasn't able to find anything that I thought worked  
23 very well for, let's say, right-to-carry laws that might  
24 be a useful instrument.

25 Q So looking at Table 4, which is --

1 A Yeah.

2 Q -- Exhibit 6.

3 A Yeah.

4 Q You can -- can you tell from that whether  
5 Zimmerman was using the instrument approach?

6 A I mean, I see the discussion below is  
7 evaluating the instrument. So it does look like he is  
8 doing that.

9 Q Do you know if that was his preferred approach?

10 A You know, I -- I would have to, you know, look  
11 a little bit more carefully. I notice that he is  
12 discussing this problem of instruments need to be  
13 evaluated and there's a weak instrument problem, but I  
14 can't recall off the top of my head, you know, what his  
15 bottom-line conclusion on the instrumental variable  
16 estimate was.

17 Q In looking at Table 4, can you identify any of  
18 the estimates Zimmerman has in there that show RTC laws  
19 increase any type of crime significantly? Statistically  
20 significantly?

21 A Yeah, it's a little strange. Let's see.

22 Yeah, I mean, it looks as though the estimates  
23 are not significant in this table for the shall  
24 variables.

25 MR. EISENBERG: If I may interject. I want to

1 note for the record that it's very hard to read those  
2 little single dots, double dots, and triple dots in the  
3 chart. Like a vision chart almost.

4 BY MR. BRADY:

5 Q If it's easier to look at the -- I just wanted  
6 to isolate this, but it is in the other report. If it's  
7 easier to read in the actual report, you might want to  
8 try that.

9 MR. EISENBERG: Unfortunately, no.

10 I think -- my guess is that the original report  
11 might have a separate color there that comes out as a  
12 very faint gray in black and white.

13 BY MR. BRADY:

14 Q Are you able to read it, Professor?

15 A Yeah. I spent my life reading this sort of  
16 stuff.

17 Q Okay. That's good to hear.

18 Can you hand me back the study --

19 A Oh, sure, sure, sure.

20 Q -- please? I apologize.

21 A No worries.

22 Q Was this all the pages? I think there -- were  
23 there more pages? I'm sorry.

24 A I think I forgot this -- I should pull this  
25 together. Looks like something is -- yeah, I -- I may



1 have messed this up. Let me see. 72, 73, 74, 71. Okay  
2 I think that's all of it, but --

3 Q All right. Thank you.

4 I'm just going to give you Page 74 of the  
5 Zimmerman study.

6 Can you read that highlighted portion aloud,  
7 please?

8 A Yeah. So it says, "Finally, the N-W estimates  
9 of the impact of shall-issue laws generally suggested a  
10 positive effect of such laws on crime rates. However,  
11 after instrumenting while" -- looks like there's a typo  
12 in here. It should say, "while most of the individual  
13 coefficient estimates on the shall-issue dummy remain  
14 positive, none are statistically insignificant" -- I  
15 think it should have said none are statistically  
16 significant -- there are a couple of typos in this  
17 sentence, but I think what he's saying, is in the  
18 instrumental version, the shall-issue dummy was positive  
19 but not statistically significant.

20 Q So you think that the word "insignificant"  
21 there is a typo, and it should be "significant"?

22 A I think so.

23 Q So what is your understanding of that  
24 conclusion? Is that what you just said, that there were  
25 some positive effects of RTC laws on crime rates;

1 however, none were statistically significant?

2 A In the instrumented model. So this actually  
3 happens very commonly. So remember I gave the example of  
4 the mayoral election year. And when you instrument --  
5 because mayoral election years are like every four years.

6 You have essentially cut your sample size by 25  
7 percent, because you're now only focusing on what happens  
8 in mayoral election years. And so while Steve got a  
9 better estimate for the impact of police, it did make all  
10 of his other estimates more statistically insignificant,  
11 because now you have reduced the amount of crime. Now  
12 you've reduced the number of observations.

13 And what's critical for statistical  
14 significance is having a lot of observations, and when  
15 you instrument you -- you're necessarily trading off this  
16 issue of, you know, hopefully getting a better estimate  
17 on the variable that you're most interested in, and he  
18 was interested in these security measures and,  
19 presumably, got a better measure for the private security  
20 efforts.

21 But it does mean that your other estimates will  
22 tend to lose significance, because, in effect, you're  
23 shrinking down the number of effective observations that  
24 you have.

25 Q So you did not include this provision of the

1 Zimmerman report in your study; is that correct?

2 A Yes. I did not.

3 Q Why did you omit it?

4 A Yeah, just for this reason, that I think -- I  
5 think Zimmerman would say I'm -- in Table 4, I'm really  
6 hoping to get a better estimate on the impact of private  
7 security measures, which is what he's instrumenting for.

8 And I think he would recognize that, hopefully,  
9 the instrumenting is getting him a better estimate for  
10 the private security efforts, but it's probably weakening  
11 the power of his ability to identify the true effects of  
12 the other explanatory variables in his model.

13 And so, as I mentioned, if you look at Steve  
14 Levitt's famous paper on police and crime, when he  
15 instrumented all -- for police, all of his other measures  
16 became less statistically significant. And that tends to  
17 be the case in these instrumented models.

18 So I think it probably is the case that you'd  
19 have more confidence in the Table 3 shall results than  
20 the Table 4 shall results.

21 Q In other words, is it fair to say you didn't  
22 include it because you discount the value of the  
23 instrumental model? Or at least Zimmerman's  
24 instrument --

25 A Yeah, I mean, again, instrumenting is a very

1 targeted approach, and you're really saying, The only  
2 thing I really care about most is the thing that I'm  
3 instrumenting for.

4 So when Levitt instrumented for police, that  
5 was the only variable that he was really concerned about.  
6 He didn't really care whether he was getting good  
7 estimates in incarceration or other explanatory  
8 variables. And again, it's a sort of tradeoff idea.

9 And so what Zimmerman was doing here is he was  
10 saying, I'm going to instrument for these private  
11 security efforts, and I think that'll give me a more  
12 precise estimate for private security. But whenever you  
13 instrument, you're essentially cutting your data --  
14 you're effectively reducing your sample size, and that  
15 makes it harder to get statistically significant  
16 estimates on your other measures.

17 And even on your instrumented measures,  
18 sometimes you have trouble there, but I think he did  
19 retain significance on the first two measures that he  
20 shows in this table.

21 Q Okay. Are you familiar with Zimmerman's  
22 2000 -- subsequent study from 2014 that he coauthored  
23 with Carlisle Moody, Thomas Marvell, and Fasil Alemante?

24 A (No audible response)

25 Q It is tiled "The Impact of Right-to-Carry Laws

1 on Crime: An Exercise in Replication"?

2 A You know, I -- I'm sure I saw that at some  
3 point along the way.

4 Q I would like to mark it as Exhibit 8.

5 (Exhibit 8 was marked.)

6 BY MR. BRADY:

7 Q If you could turn to Page 80, as it is  
8 indicated on -- at the bottom of the page. Where it says  
9 "Summary and Conclusions."

10 A Yes.

11 Q I'll read aloud this time, and you just tell me  
12 that I'm being accurate, so you don't have to -- is that  
13 okay?

14 A Oh, fine.

15 Q So it says, "The most robust result, confirmed  
16 on both the ADZ county and state data sets, is that the  
17 net effect of RTC laws is to decrease murder. This is  
18 consistent with the theory that the deterrent effect of  
19 concealed firearms is greater than the instrumentality  
20 and lethality effects."

21 Did I quote that accurately?

22 A Yes.

23 Q Turn to the next page.

24 The very last sentence states, "In any case,  
25 given that the victim costs of murder and rape are orders

1 of magnitude greater than those of robbery and assault,  
2 we conclude that RTC laws are socially beneficial."

3 A Yes.

4 Q Did you consider this report in making -- in  
5 preparing your study?

6 A Yes. I did.

7 Q Can you point to me where in your study this is  
8 reflected?

9 A Oh, no, I -- I probably was -- was even more  
10 inclined to cite Zimmerman's paper, in part, because he  
11 was writing, attacking me, that made it, I think, more  
12 credible than -- you know, his study would clearly be an  
13 example of someone who's not on -- you know, somebody  
14 who's a friend or someone who's, you know, clearly on my  
15 side on this issue.

16 Q So you included his -- this study in your  
17 report?

18 A Yes.

19 Q Can you point me to where in your report you  
20 consider this study?

21 A Oh, no. That's what I was -- I was referring  
22 to the Zimmerman paper that we had been discussing  
23 that -- because this paper that you've just handed me --  
24 what is this? Exhibit 7?

25 Q 8.

1           A   8.   Because Exhibit 8 sort of shows that  
2   Zimmerman is certainly not someone who's, you know,  
3   deferring to me or someone who would be identified as on  
4   my side. I thought that the earlier Zimmerman paper was  
5   sort of more valuable to show that, when he did his own  
6   analysis, this is what he came up with.

7           Q   So then you did not include this report -- or  
8   this study in your -- in preparing your study, Exhibit 8?

9           A   Yeah, I mean, I didn't cite this study, but  
10   I -- you know, in general, I think about these things as  
11   I'm doing my work.

12          Q   Would it -- is it your view that the portion  
13   that I read of Exhibit 8 contradicts your conclusion in  
14   your report?

15          A   Yeah. And if you actually look at my NBER  
16   working paper, I do cite this paper, sort of, on Page 2.  
17   So I didn't put it into my expert report, but I do cite  
18   his paper in the first footnote of the NBER working  
19   paper.

20          Q   Okay. So then you did consider this study in  
21   preparing your report?

22          A   Yeah, no, I said I considered it. I just  
23   didn't cite it in my expert report, but I did cite it in  
24   the -- in the working paper.

25          Q   Would it be fair to say that the quotes that I

1 just read from this study contradict your conclusions in  
2 your expert report?

3 A Okay. Let me just sort of look back for one  
4 second.

5 Q Actually, I can --

6 A Yeah. So he says the most result -- the most  
7 robust result is that the net effect of RTC laws is to  
8 decrease murder. So I would disagree with that  
9 conclusion, but that's what he did say.

10 And then he goes on to say, "However, there is  
11 evidence that state data right-to-carry laws may increase  
12 robbery and assault." So in some ways he's supporting  
13 me; in some way he's contradicting what I found.

14 Q His ultimate conclusion, is it fair to say, is  
15 that RTC laws are socially beneficial? Is that correct?

16 A Yes, that's what -- that's how he -- or how  
17 this paper ends.

18 Q You also rely on the Durlauf, d-u-r-l-a-u-f,  
19 Navarro, and Rivers' paper as supporting your  
20 conclusions; is that correct?

21 A I did cite that paper.

22 Q Does that paper support your conclusions in  
23 your report?

24 A Their preferred model supports my conclusion.

25 Q What made you cite to that paper out of the



1 universe of other carry papers?

2 A Well, Steve Durlauf is a very, very talented  
3 professor and -- now's a friend, but he and I were  
4 classmates in graduate school. So he's somebody I would  
5 take very seriously.

6 You do definitely have hierarchies among  
7 empirical scholars, and some are more credible than  
8 others. And he's a very tough customer. He's somebody  
9 who, you know, is very reluctant to draw conclusions from  
10 data unless he's pretty confident. So definitely  
11 somebody I read and am interested in.

12 Q Reliable, trustworthy?

13 A Oh, yeah, he's very reliable and trustworthy.  
14 I disagree with him sometimes, but I would always read  
15 what he says carefully.

16 Q Does this study -- when I say, "this," the one  
17 you cited, which I might as well mark as Exhibit 9 right  
18 now anyway, just so we can be clear.

19 (Exhibit 9 was marked.)

20 BY MR. BRADY:

21 Q Does it account for both types of fixed  
22 effects, to your knowledge?

23 A You know, I -- he used a different approach  
24 than the one I use. So I -- off the top of my head, I  
25 can't recall. He used the sort of Bayesian model

1 generating device, which is an interesting and different  
2 technique, but he's very smart guy and does very  
3 interesting work.

4 Q You know what? I should have got your updated  
5 Exhibit B, to make sure it still has what I'm about to  
6 ask you about.

7 MR. BRADY: Should we break for lunch? Or would  
8 you all prefer -- because, I mean, I might as well make  
9 sure that I have the right Exhibit B.

10 MR. EISENBERG: I am happy to defer to everybody  
11 else.

12 MR. BRADY: Well, the court reporter. Would  
13 you --

14 THE WITNESS: I'm easy. Whatever helps you guys.

15 MR. EISENBERG: Would you like a break?

16 MR. BRADY: We're unlikely going to be able to  
17 power through without going to lunch. I got quite a bit  
18 more material to go through.

19 MR. EISENBERG: Yeah, I mean, I'm not saying no.  
20 I'm just saying if you guys want -- you guys want to  
21 continue, I'll continue. If you want to stop, I'm happy  
22 to stop.

23 THE WITNESS: Yeah, I'm the same. Like whatever  
24 is good for you.

25 MR. BRADY: Okay. Let's take a quick break.

1 (Lunch recess taken from 12:33 p.m. to  
2 1:40 p.m.)

3 MR. BRADY: I'm going to mark as Exhibit 10 the  
4 latest version that I possess of the DAW.

5 THE WITNESS: Yeah.

6 (Exhibit 10 was marked.)

7 BY MR. BRADY:

8 Q Could you open that to Page 18.

9 A Yes.

10 MR. EISENBERG: If you want to just state for the  
11 record that off the record, Professor Donohue said that  
12 there is a more --

13 MR. BRADY: Sure.

14 MR. EISENBERG: -- up-to-date version of this  
15 paper.

16 MR. BRADY: Off the record Professor Donohue  
17 stated that he has a more updated version of this paper.  
18 Counsel does not have that at this time.

19 MR. EISENBERG: I believe. I believe that this  
20 one --

21 MR. BRADY: Plaintiff's counsel does not have it  
22 at this time.

23 MR. EISENBERG: Oh, pardon me.

24 I believe that this version, the one that's  
25 dated June 12, is the latest version that defense counsel

1 has as well and that defense counsel attempted to  
2 transmit to plaintiff's counsel.

3 MR. BRADY: Okay.

4 Q So do you see Section 7, summary of panel data  
5 analysis?

6 A Yes, yes, yes.

7 Q Can you read for me, starting from the second  
8 paragraph, starting with, "Durlauf, et al."

9 A Yes, yes. Okay. "Durlauf attempts to sort out  
10 the different specification choices in evaluating  
11 right-to-carry laws by using a Bayesian model averaging  
12 approach, using county data from 1979 through 2000.  
13 Applying this technique, the authors find that in their  
14 preferred spline or trend model, RTC laws elevate violent  
15 crime in the three years after RTC adoption." Quote, 'As  
16 a result of the law being introduced, violent crime  
17 increases in the first year and continues to increase  
18 afterwards.'"

19 Q Okay. That -- what you just said, quote, is a  
20 quote from the Durlauf study, correct?

21 A Yes.

22 Q Okay. I believe we already marked as Exhibit 9  
23 the Durlauf study.

24 What is your understanding of that quote's  
25 purpose in the Durlauf study?

1           A    You know, I think what he was doing in this  
2   paper was sort of trying to show the sensitivity of the  
3   results in the estimation of the impact of  
4   right-to-carry, and he was following up on a suggestion  
5   of the Strnad paper that I cite below this, that you  
6   could use Bayesian approaches to perhaps pick the best  
7   model.

8           And Durlauf said, if we were using that  
9   approach, this is the preferred model that would emanate  
10  from his Bayesian analysis.

11          Q   Is it your view that this study's ultimate  
12  conclusion is that RTC laws elevate violent crime?

13          MR. EISENBERG:   Just a point of clarification,  
14  you're still referring to the Durlauf study?

15          MR. BRADY:   Yes.

16          THE WITNESS:   You know, I think this was more a  
17  methodological paper than trying to reach that ultimate  
18  conclusion.   The reason why I say that is that Steve just  
19  used the county-level data set from the National Research  
20  Council report to do his analysis.   And so it was more to  
21  say, Let me look at this data set that the National  
22  Research Council used and see if this Bayesian technique  
23  can generate a result.

24          But if he had really wanted to draw a firm  
25  conclusion on the impact of right-to-carry laws, he would

1 have used the more complete data that was available when  
2 he wrote this paper.

3 BY MR. BRADY:

4 Q So then this study does not have an ultimate  
5 conclusion that says RTC laws increase violent crime?

6 A I mean, it just says in the best -- in what his  
7 Bayesian approach said was the best model, violent crime  
8 increases at the rate suggested here. But he was  
9 somewhat retrained in saying that, you know, therefore,  
10 I'm convinced that violent crime increases.

11 Q Okay. So we've marked the Durlauf study as  
12 Exhibit 9.

13 For your assistance -- you don't have to wade  
14 through it -- can you read the highlight right there?

15 A Sure.

16 Q Aloud, please.

17 A "Overall, we conclude that the evidence that  
18 shall-issue right-to-carry laws generate either an  
19 increase or decrease in crime on average seems weak."

20 Q Have you seen that sentence before?

21 A Yes, yes.

22 Q And you omitted it from your report, correct?

23 A Yeah, because, essentially, as I said, that was  
24 the conclusion of the National Research Council, which  
25 had looked at the data through 2000, and Steve was

1 saying, Yes, I sort of support that conclusion.

2 But it wasn't really relevant to my report, now  
3 that we have the more complete data. So I was able to  
4 draw stronger conclusions than he was able to.

5 Q Were there any other conclusions in the Durlauf  
6 study that you considered in preparing your report?

7 A You know, I -- I looked at them, and -- I can't  
8 remember if he hinted about property crime being  
9 influenced, but I didn't -- you know, at this point I  
10 basically don't look back to analyses that exclude data  
11 after 2000, because we have a much richer data set at  
12 this point.

13 Q Can you read for me the first highlighted line  
14 there from the Durlauf study?

15 A Yeah. "Relative to the strong claims made by  
16 particular papers in the literature, we find evidence  
17 that the estimated effects of shall-issue right-to-carry  
18 laws on crime are very sensitive to modeling  
19 assumptions."

20 Q What is your understanding of that quote?

21 A You know, this is essentially the identical  
22 conclusion of the National Research Council study that  
23 was also using the same county-level data set through  
24 2000 that Steve was looking at and reached, really, very  
25 much the same conclusion, that the results are sensitive

1 to modeling assumptions.

2 Q Would you say that there is a consensus in the  
3 community that that is the case?

4 A You know, I certainly believe that, and --

5 Q So you believe that effects of RTC laws are  
6 very sensitive to modeling assumptions?

7 A You know, I believe it if you're looking at the  
8 county-level data set through 2000. And that was -- that  
9 was what the National Research Council was doing.

10 And indeed, it was really my work that  
11 convinced them that this was true, you know.  
12 Essentially, the National Research Council was adopting,  
13 you know, what my work had shown about right-to-carry  
14 laws, that the results were very sensitive to model  
15 assumptions with the data available at that time and the  
16 techniques available at that time.

17 Q You rely on a paper in the American Journal of  
18 Public Health by David Swedler, Molly Simmons, Francesca  
19 Dominici, and David Hemenway; is that correct?

20 MR. EISENBERG: Objection. Vague and ambiguous as  
21 to the word "rely."

22 MR. BRADY: I'll strike that, other than the title  
23 of it.

24 Q You cite that paper in your report; do you not?

25 A You know, I -- I should look back at the



1 report, just to be clear. But I mean, it sounds like a  
2 paper I might have cited.

3 MR. EISENBERG: Are you looking for your --

4 THE WITNESS: Yeah, my expert report.

5 So this -- do you have the page or anything?  
6 I'm not sure I can find it.

7 BY MR. BRADY:

8 Q It's the one talking about linking gun  
9 ownership rates with police homicides.

10 A Oh, yes, yes.

11 Okay. Yes, yes.

12 Q Did I refresh your memory on your reliance on  
13 that study?

14 A Yes, yes, yes.

15 Q Does it refresh your memory on the details of  
16 the study itself?

17 A Yes.

18 Q Do you recall if that particular paper included  
19 both fixed effects, state and time?

20 A Yeah. So this was, I believe, a simpler  
21 statistical approach.

22 Q So it did not include both --

23 A Yeah, this was not a panel data paper. So they  
24 could not use state and the fixed effects.

25 Q Would it concern you if they did not use both

1 fixed effects, as far as trusting their conclusions?

2 A You know, it's certainly something worth  
3 considering.

4 When you look at any of these studies, you  
5 know, how much weight can you put on it. This was sort  
6 of a first study trying to make this link, and if I were  
7 going to go to the mat that this had been established, I  
8 would say, you know, is there any way we can get panel  
9 data.

10 Turns out panel data's harder to get. But it  
11 would be nicer to have confirmation from multiple  
12 studies, which is, in general, true. If you can, you  
13 know, see more than one study pointing in a certain  
14 direction, that that's better, and I always like panel  
15 data if you can get it.

16 Q If including -- so is it your -- just to be  
17 clear, is it --

18 A Yeah.

19 Q -- your conclusion that they did not use both  
20 fixed effects?

21 MR. EISENBERG: Objection. Misstates prior  
22 testimony.

23 THE WITNESS: Yes, that is my recollection. I'd  
24 have to look back to be perfectly clear, but that was my  
25 recollection.

1 BY MR. BRADY:

2 Q Assuming they did not, if including one or the  
3 other would change the result, would that change your  
4 opinions about the conclusions of this report?

5 A You know, it certainly -- it certainly could.  
6 In general, these things are like crystals. You want to  
7 look at them in many different ways.

8 This was a provocative finding that these two  
9 groups of states with equal numbers of police officers  
10 had very different rates of police homicide. So that's  
11 an interesting and, you know, illuminating finding. But  
12 until, you know, other work has been done, I don't know  
13 if it would be the final word.

14 Q Do you normally rely on -- or strike that.

15 Do you normally cite as supportive studies that  
16 do not include both fixed effects?

17 A You know, I was trying to make a theoretical  
18 point in line with some, you know, recent cases, like the  
19 Philando Castile case, where a police officer shot a  
20 right-to-carry permit holder, showing that, you know,  
21 police are apprehensive about dealing with armed  
22 individuals, and this paper, you know, gave support to  
23 the idea about why they would be concerned.

24 But, you know, it's -- it's probably not going  
25 to be the final word on this question. But it's at least

1     worth considering and would be supportive of this view  
2     that police officers are at risk from guns.

3             Q   Is it fair to say that the report is suspect  
4     because it didn't use both fixed effects?

5             A   You know, that's probably too strong a word,  
6     "suspect."   But --

7             Q   Would you prefer that they had used both fixed  
8     effects?   Would you feel more comfortable relying on it,  
9     had they used both fixed effects?

10            MR. EISENBERG:   Objection.   Compound.

11            THE WITNESS:   You know, it's -- I mean, it's a  
12     great question, because we're always sort of evaluating  
13     how much confidence we can put into any of these studies.

14                   And here you could try to do this with panel  
15     data.   It's a harder study to do than the study they did  
16     do.   And, you know, the data demands are greater.   So I  
17     would like to see that.

18                   Probably can't do a synthetic controls in this  
19     case, and so if you could do that, I'd really like to see  
20     that.   But this particular problem doesn't sort of lend  
21     itself.   But I think you could do a panel data analysis,  
22     and I would certainly be interested in seeing if anything  
23     came out of that analysis, just along the lines that we  
24     discussed.

25            Q   Okay.   I'd like to move on to the process that

1 you went through in preparing your study.

2 So you've alluded a few times to the factor of  
3 the crack -- so-called crack epidemic.

4 A Yes.

5 Q What studies did you rely on in asserting that  
6 the violent crime increase between 1985 and the early  
7 '90s resulted from the introduction of crack cocaine?

8 MR. EISENBERG: Objection. Lack of foundation.

9 MR. BRADY: Strike that.

10 Q Did you -- does your paper assert that the  
11 violent crime increase between 1985 and the early 1990s  
12 resulted from the introduction of crack cocaine?

13 A Yes, I -- I believe that, and I probably said  
14 that in the report.

15 Q On what do you base that belief?

16 A Yeah. Just the literature in this area.  
17 There's a very strong report by Steve Levitt that was  
18 published in the Journal of Economic Perspectives that  
19 went through the data on the impact of crack on crime.

20 Q Is that cited in your study?

21 A You know, I probably did not cite that in this  
22 paper, but if -- if I were, you know, asked to sort of  
23 buttress a point, that would probably be the first paper  
24 that I would look to, Steve being, you know, one of the  
25 elite academics, winner of the John Bates Clark medal,

1 which is like the junior Nobel Prize in economics.

2 So that's where I would go if I felt I needed  
3 support. It is a very widely accepted view. So I  
4 probably didn't think it was controversial, but if I  
5 needed support, that's what I would cite.

6 Q Would those -- is there, likewise, support for  
7 the notion that California, New York, and Washington,  
8 D.C., were areas with the, quote, "the worst crack,  
9 problems," as indicated in your report?

10 A Well, there's certainly a lot of evidence of  
11 crack problems in those areas.

12 Q Being the worst?

13 A Well, that's a good question. When I wrote  
14 that I was sort of thinking in relation to the initial  
15 adopters of right-to-carry states, you know, the Dakotas  
16 and Maine, where they really didn't see this crack  
17 problem in the late 1980s.

18 But it's a fair point to say, you know, did you  
19 really do a study showing which is the worst. I actually  
20 did try to sort of look at that, I think, in another  
21 paper, which were the worst crack states, but I wasn't --  
22 I wasn't drawing on that work in making that conclusion.

23 I just -- to be more careful, it might have  
24 been better to say these were states that had a  
25 significant problem and worse than other adopters of

1 right-to-carry laws.

2 Q You assert in your report that previous studies  
3 find support for RTC laws didn't account for the crack  
4 cocaine factor; is that right?

5 A Yes, yes, yes.

6 Q Are there none that accounted for it?

7 A You know, I don't mean to be overly critical  
8 here, because I think -- I think it's really hard to  
9 fully account for the crack problem, and I think there  
10 are some studies that try to do something, but I don't  
11 think anybody has ever done anything that really  
12 effectively addressed the crack issue.

13 There were some papers that tried to do -- and  
14 there's always, again, an issue in statistical models,  
15 can you get an explanatory variable that quantifies the  
16 relationship between, in this case, crack and crime, and  
17 that is plausible.

18 And it turns out to be a trickier objective  
19 than one might like. Even my friend, Steve Levitt, who I  
20 mentioned, tried to develop a crack index, and I don't  
21 think it was very fully successful, but he did try to do  
22 that.

23 Q Would you consider John Lott's 2010 third  
24 edition of "More Guns, Less Crime," to have addressed the  
25 crack issue?

1           A    You know, John and I have gone back and forth  
2   on this for a while. You know, sometimes I think John is  
3   more concerned with the cosmetics of the study than the  
4   validity of the study, and so I think he wants to put  
5   something in his paper that said, see, I controlled for  
6   crack and didn't change my results.

7           But I don't think he had a reasonable control  
8   for crack. But he has -- he has tried to do something,  
9   and -- I don't really fault him for not being able to do  
10 something, because anything that I haven't been -- unable  
11 to do, I'm not surprised that John was unable to do.

12           MR. BRADY: I'd like to mark this as Exhibit 11.

13           (Exhibit 11 was marked.)

14   BY MR. BRADY:

15           Q   As you can see, this is the cover of said book,  
16 "More Guns, Less Crime." If you open it up to the third  
17 page --

18           MR. EISENBERG: Just to clarify, the exhibit has  
19 only four pages?

20           MR. BRADY: Correct.

21           Q   Do you see how, in the text beneath the graph,  
22 it says, "In nine alternative graphs that follow, I look  
23 at many combinations of factors that can explain crime"?  
24 And it lists them alphabetically.

25           Do you see what the "I" says?



1 A Wait a minute. The bottom of Page 2 --

2 Q 277?

3 A -- 77 says, "The nine figures statistically  
4 show" --

5 Q It says, "In the nine" --

6 A Oh, I see.

7 Q -- "follow, I look at many combinations of  
8 factors that can explain crime." It "A," "B," "C," "D,"  
9 "E," "F," "G," "H," "I."

10 A Yeah.

11 Q "I" says, "Including crack cocaine use for the  
12 1980 to 2000 period. See Figures 10.3-A to 10.3-I."

13 A Yes, yes, yes.

14 Q So what is your -- is it your view that  
15 Professor Lott's treatment of crack cocaine in that  
16 instance is cosmetic?

17 A Yes. This actually is the crack variable that  
18 Steve Levitt tried create. And so John includes it into  
19 his analysis. Just as Marvell and Moody do in theirs.

20 So when we went through our examination of the  
21 different panel data models, one of them was Marvell and  
22 Moody, and Marvell and Moody include this exact same  
23 variable.

24 So if -- I mean, again, it's not -- it's not  
25 John's fault. I just don't think that variable works

1 very well. And it also has the major problem that it  
2 limits the analysis to the pre-2000 period.

3 So one of the great advantages of my work is  
4 that I have 14 more years of data, 11 more states  
5 adopting right-to-carry laws. And if you include this  
6 crack variable, then you can't look beyond 2000. As we  
7 saw Durlauf said, you know, the results are too ambiguous  
8 if you're only looking at data through 2000, and that was  
9 the National Research Council's conclusion.

10 So it creates problems if you try to use this  
11 particular measure, because it means you can't look  
12 beyond 2000, because that's the only period that Steve  
13 Levitt created that crack variable.

14 Q But wasn't the crack epidemic -- so-called  
15 crack epidemic that you allude to between 1985 and 1995?

16 A Yes, yes.

17 Q Then how would post-2000 data be relevant?

18 A Well, only in the following sense. That if you  
19 run these -- if you run these models and you include a  
20 variable that you don't have data for after 2000 -- such  
21 as the crack variable -- then it will drop out all of  
22 your data for after 2000, because the regression won't  
23 work if it doesn't have information in every column.

24 And so, basically, what Lott is able to do is  
25 essentially do a variance of what Steve Durlauf and the

1 National Research Council were trying to do, which is can  
2 we tease out the impact of right-to-carry laws by looking  
3 at the period before 2000. And, you know, the strong  
4 conclusion seems to be it's very hard to tease that out  
5 if you're only looking at data through 2000.

6 So John still believes that right-to-carry laws  
7 reduce crime, but we've seen that the Durlauf paper and  
8 the National Research Council rejected that finding.

9 Q They found that there wasn't enough evidence to  
10 decide either way; is that correct?

11 A Yeah, and they -- they specifically stated,  
12 quote -- I'm paraphrasing, you know, the scientific  
13 evidence does not support the view that right-to-carry  
14 laws reduced crime.

15 Q But because they needed more research, would it  
16 be fair to say -- obviously, they haven't seen your paper  
17 yet.

18 A Yeah.

19 Q But setting aside your current paper, just  
20 looking at their position, wouldn't it be fair to say  
21 that they rejected the idea that right-to-carry laws  
22 increase crime?

23 A They -- they weren't really clear on any sort  
24 of affirmative conclusion, but because the dissenter  
25 tried to make the affirmative case, look, we -- he said,

1 I think right-to-carry laws decrease murder. They went  
2 out of their way to say, We emphatically reject that  
3 conclusion, and then they just were somewhat ambiguous,  
4 saying, you know, given the current evidence, we can't  
5 tell what the causal impact of right-to-carry laws is on  
6 crime.

7 Q So then they're ambivalent as to whether  
8 right-to-carry laws increase or reduce crime? Is that a  
9 fair statement?

10 A Yeah, based on the data and the statistical  
11 models through 2000, that was their conclusion.

12 Q Okay. Getting back to the crack factor, if you  
13 will, did your previous 2014 study account for that,  
14 account for the crack factor?

15 A Yeah, yeah. I mean, I did address it  
16 specifically, but I never used this particular crack  
17 variable unless I was mimicking Marvell and Moody, who  
18 used it, because I -- I don't believe that this captures  
19 the true relationship between crack and crime, which  
20 is -- it's actually a subtle and interesting  
21 relationship.

22 Q I'm sorry, just to be clear --

23 A I'm sorry.

24 Q -- your 2014 report doesn't capture --

25 A Well, I did address the crack issue, but I just

1 didn't use this specific variable that we're discussing  
2 that Lott references using.

3 Q You used it --

4 MR. EISENBERG: Let the record reflect that  
5 Professor Donohue is pointing to Page 277, that Note I,  
6 including crack cocaine for the 1980-2000 period.

7 BY MR. BRADY:

8 Q So you used a different methodology from Lott  
9 in dealing with the crack factor in your 2014 study?

10 A Yes.

11 Q Okay. Do you still agree with that approach in  
12 dealing with the crack factor that you did in the 2014  
13 study?

14 A You know, certainly one part of what I did in  
15 that earlier work was replicated in this current work,  
16 where I said, well, since we have such a hard time  
17 figuring out how crack was sort of influencing crime,  
18 let's look at 2000 to 2014, because by then the primary  
19 impacts of crack had dissipated and we'll get a cleaner  
20 look at the data, absent the crack problem.

21 Now, as we said earlier, discussing some of  
22 Zimmerman's stuff, that creates other issues. But that's  
23 one thing that I have been sort of consistently thinking  
24 about as a way around the crack problem, because I still  
25 haven't come up with a variable I think adequately

1 captures that crack-crime link. It's a tricky issue.

2 Q In your 2014 study you analyzed the effect of  
3 right-to-carry laws on the rates of specific violent  
4 crimes individually, correct?

5 A Yes, I did do that, yes.

6 Q What were those crimes?

7 A I think I just followed Lott's approach of  
8 looking at all of what we call the Index 1 FBI crimes.  
9 And so that would be rape, robbery, aggravated assault,  
10 murder, burglary, theft, and motor vehicle theft. Those  
11 would be the seven categories.

12 Q Did your 2014 study find a significant effect  
13 from right-to-carry laws on murder rates?

14 A You know, I'd have to look back. Off the top  
15 of my head, I suspect that there were some instances  
16 where it did and some where it didn't. The main --

17 Q Sorry, when you say some where it did, some  
18 where -- are you saying some regressions did suggest an  
19 increase in crime and others did not?

20 A Yes. I'm trying to recall the earlier study.

21 In some ways it's sort of been superseded, in  
22 my mind, by the latest works. I'm not as precise in my  
23 recollection. But I suspect that there were some models  
24 in which it showed murder going up and other models in  
25 which that was not the case.

1 Q Would that be the same for rape?

2 A Yes. I'm sure that would be true.

3 Q And robbery?

4 A Probably for robbery as well.

5 Q What about aggravated assaults?

6 A Aggravated assault -- I think was pretty  
7 consistent that aggravated assault was associated with --  
8 a rise in aggravated assaults resulted from the  
9 right-to-carry laws.

10 Q What does significant mean in that context?

11 A All I meant was that there was sort of credible  
12 statistical support for the idea that right-to-carry laws  
13 increased aggravated assault.

14 Q Did your report in this case or the DAW analyze  
15 the effect of right-to-carry laws on robbery rates?

16 A In this paper I only look at murder and the  
17 aggregated property and violent crime categories.

18 Q Violent crime. So what is the definition of  
19 violent crime for the purposes of your report?

20 A So I just -- I just followed the FBI definition  
21 of violent crime, which is taking the four categories of  
22 murder, rape, robbery and aggravated assault as, quote,  
23 violent crime. And then taking the three categories of  
24 property crime, which would be burglary, motor vehicle  
25 theft, and larceny, as the three property crime

1 categories.

2 That -- it is true that they do measure other  
3 property and violent crimes, but those are the -- those  
4 are the breakdowns that the FBI uses. If you read a  
5 report that says violent crime or property crime, that's  
6 the way they're counting that.

7 Q Does violent crime, the term that you use --  
8 the way you use it, does it include murder, or are you  
9 dealing with murder separately?

10 A No, it includes murder.

11 Q Includes murder?

12 A Yeah.

13 Q So you did a separate analysis for murder and  
14 then a separate analysis for violent crime including  
15 murder?

16 A Yes.

17 Q And violent crime does not -- the DAW does not  
18 distinguish between the specific crimes of rape, robbery,  
19 and aggravated assault, as you did in your previous  
20 study; is that correct?

21 A Yeah, in this paper I just looked at murder,  
22 violent crime, and property. I didn't disaggregate  
23 further in either the property or the violent category,  
24 apart from murder being segregated out.

25 Q So what is the benefit to the quality of the



1 data set by lumping all of these crimes -- treating them  
2 as violent -- treating all these individual crimes as  
3 violent crimes instead of dealing with them individually,  
4 as you did in your previous study?

5 A Yeah.

6 MR. EISENBERG: Objection. Argumentative.

7 THE WITNESS: You know, probably the standard way  
8 I've done it in many crime papers is just to show murder,  
9 property, and violent crime. When I was trying to sort  
10 of follow in John Lott's footsteps to sort of see how my  
11 results compared to his, I was disaggregating.

12 But in this paper, as I think I said earlier, I  
13 really just said, you know, now sort of come up with your  
14 own model and --

15 BY MR. BRADY:

16 Q So why did your own model decide to aggregate  
17 those terms? What's the benefit of doing that --

18 MR. EISENBERG: Were you finished answering?

19 THE WITNESS: Yeah, so I can -- I can say more in  
20 response to the question.

21 So essentially, there were couple of reasons.  
22 Some of them are theoretical, and some of them were sort  
23 of pragmatic.

24 The pragmatic reason is, you know, the paper's  
25 already a hundred pages long, and I do like to go through

1 a fair number of robustness checks, and the more  
2 individual categories you're using, the more you're sort  
3 of multiplying your tables, and just the verbiage. And I  
4 already have to cut this down a lot to try to get this  
5 published. So that's sort of a pragmatic factor.

6 But as we said earlier, there's always these  
7 issues about, you know, if you move in a certain  
8 direction, you get some benefits, and you give up  
9 something. Move in the other direction, you'll maybe  
10 gain some benefits and lose something.

11 So aggregation makes it easier to generate  
12 statistically significant results. So we can see, if you  
13 compare murder versus violent crime, you do tend to see  
14 more -- you know, more precise estimates, which is what  
15 you need to get statistically significant results in the  
16 violent crime category than the murder category.

17 And that is, in general, true, that the more  
18 you try to narrow your focus, the harder it is going to  
19 be to get precise estimates. So if you look at the --  
20 all of my -- all the estimates that I have in the paper  
21 will have, in parentheses underneath, a standard error.

22 And the bigger that standard error is, the  
23 harder it's going to be to generate statistically  
24 significant results. And you do get lower standard  
25 errors with aggregated violent crime than individual

1 categories. So it is going to be easier to get  
2 statistically significant result.

3 On the other hand, as your question sort of  
4 suggests, you're getting, you know, in some sense, a  
5 better estimate of a more aggregated phenomenon, and  
6 sometimes we want to know, you know, more precisely about  
7 the disaggregate effects. And so that's what we can do  
8 with this, and I -- I actually have run those exact same  
9 regressions in this context as well.

10 BY MR. BRADY:

11 Q Is that reflected in your report?

12 A You know, I didn't put them into this report,  
13 but I do -- I have done those, and I've looked at them.  
14 And, you know, in essence, it sort of conforms to the  
15 pattern of what we see in this report, that you get, you  
16 know, more precise estimates for the aggregated numbers  
17 than you do for the disaggregated numbers, like murder.

18 Q So you ran regressions for the disaggregated  
19 crimes in preparing this report, but you did not include  
20 them?

21 A No, I actually ran them after there was  
22 criticism of not doing it. And, you know, it pretty much  
23 conformed to the findings of what we saw here.

24 Q Well, then why wouldn't you include it in your  
25 report? That would seem to suggest to bolster your

1 argument, no?

2 A Well, I said I ran them after there was a  
3 criticism of not including them. Which -- so my report  
4 had already been done.

5 Q So they are not included in your current  
6 report?

7 A That's right. So I think Gary Kleck criticized  
8 me for not doing that. So I just said to my research  
9 assistant, you know, run those and --

10 Q But you're still making revisions to your  
11 report -- or to your study, as we've learned here today,  
12 correct?

13 A Yes.

14 Q You don't think it's important to respond to a  
15 critic and simultaneously bolster your argument with  
16 additional regressions?

17 A You know, I didn't ask if I was allowed to do  
18 another report in response to Kleck, but I -- I really  
19 can't add any more to this paper, because I already am  
20 way over what the American Economic Review and other top  
21 journals wants from a publishable paper.

22 But, you know, if they ask me to write a  
23 supplement, it would be very easy for me to run those  
24 regressions and show them in this context as well.

25 Q When did you run those regressions?

1 A As I said, I ran them -- or had my staff run  
2 them right after I read the Kleck report.

3 Q Does any other study analyzing the impact of  
4 right-to-carry laws aggregate the different crimes into  
5 the term violent -- into one single category of violent  
6 crime like your report does?

7 A Yeah, we were just looking at the Durlauf  
8 study, and he does the exact same thing, breaks it down  
9 into murder, property, and violent. It's a fairly  
10 standard way. And he's --

11 Q Fairly standard.

12 Are there any other besides Durlauf?

13 A Well, many of my papers have done it that way.  
14 As I mentioned, the papers in which I'm sort of  
15 responding to Lott I would do it in which ever way he did  
16 it. But it is fairly traditional to break it -- the  
17 Brennan Center report, which is -- as I said here, also  
18 followed that protocol.

19 Q So then your aggregating these terms is not  
20 uncommon in your field of research?

21 A No, it's not uncommon.

22 Q Other than Durlauf, are there any other  
23 reports -- any other studies that you cite to in your  
24 report that use the same violent crime aggregate term as  
25 you?

1           A Yeah, the Brennan Center report does that as  
2 well. So the four major studies that I -- or models that  
3 I would look at are, you know, mine, the Brennan Center,  
4 Lott and Mustard and Marvell and Moody, and the Brennan  
5 Center also looks at aggregated violent crime.

6           Q Are there any studies or reports cited in yours  
7 that did not use the aggregate term for violent crime?

8           A Yeah, so Lott and Mustard and Marvell and  
9 Moody, I believe, disaggregated.

10          Q Do you see any problems in comparing studies  
11 that use two different approaches?

12          A You know, for me it's never a problem, because  
13 I will just -- you know, if I want to compare how my  
14 results work to someone who has done the aggregated or  
15 the disaggregated form, I would usually, you know, create  
16 the data set and then just do the analysis myself  
17 whichever way I thought was better to do it.

18                 And if somebody used only violent and I was  
19 interested in the subcategory, then I would -- I could  
20 use their overall model. Because the choice of  
21 explanatory variables and the way you specify them would  
22 be the same whether you're looking at violent crime or  
23 murder or rape.

24                 And so I don't need to be bound by whatever  
25 choice the other researchers made. I can aggregate it or

1 disaggregate as I think necessary.

2 Q You can aggregate or disaggregate, right?

3 Aren't you limited to their conclusion -- the  
4 other authors' conclusions in their study?

5 A You know, so -- for example, Lott has a model  
6 that he used, and I can run that -- I can run his exact  
7 model on my data, either disaggregating or aggregating,  
8 and come to my own conclusion based on that and so -- in  
9 general, if you look at my report, you will see -- like  
10 using Lott's model, the results definitely do not support  
11 what Lott contends.

12 So I think that that's pretty powerful  
13 evidence. Because just using the exact identical model  
14 but using it on a longer time period and more complete  
15 data and, you know, the results support the opposite of  
16 what John Lott says.

17 So that's the nice thing about empirical  
18 evaluation of the law, that you don't have to rely on  
19 anyone's word. You just need to get the data and run  
20 the -- run the model, and then you find out. As long as  
21 you're very honest and open in what you're doing, there  
22 isn't -- there isn't any way to criticize the  
23 implementation of the model.

24 You can always criticize whether the model is  
25 appropriate, but once you have a model, you run it on the

1 data, and that's going to give you the answer for that  
2 model.

3 Q Did the increased violent crimes that result  
4 from right-to-carry laws that you conclude occur in your  
5 report --

6 A Yeah.

7 Q Do all of those crimes involve firearms?

8 A No. No.

9 Q How do you know that?

10 A The increase that were -- or in essence, what  
11 our models are trying to do is show net effects. And so  
12 there could be some benefits in right-to-carry laws,  
13 there could be some costs, and all we're able to conclude  
14 is here is the overall net effect.

15 And when it's a positive estimate, as it is for  
16 violent crime, that's telling us that violent crime has  
17 gone up more than it's gone down. So you can't say too  
18 much more from that narrow finding than what I just said.

19 But we can make inferences about how the  
20 effects are playing out that would lead me to believe  
21 that we're getting declines in both gun crime and non-gun  
22 crime.

23 Q If right-to-carry laws are responsible for  
24 increased violent crime --

25 A Yes.



1 Q -- wouldn't the crime necessarily have to  
2 involve a gun?

3 A Not necessarily. It's a great question.  
4 Because there are so many pathways that are initiated by  
5 the decision to put guns into the sort of public arena.

6 And so of course, you know, probably the single  
7 biggest effect, apart from the increases in crime, caused  
8 by permit holders is the theft and acquisition of guns by  
9 the criminal elements once they've entered into the  
10 public mainstream.

11 So once a criminal has a gun, anything could  
12 happen. They could commit a gun crime. They could,  
13 knowing they've got a gun in their pocket, steal  
14 something and -- or beat up somebody, knowing if he is a  
15 problem, I'll pull out my gun and kill him. So whichever  
16 way it plays out depends a little bit on the facts.

17 But if you're arming criminals, you'll get more  
18 gun crime, but you'll get all sorts of other crimes. One  
19 of the crimes being theft of guns, and so that's a  
20 property crime that's going up. And so --

21 Q Your report concludes that property crime did  
22 not increase as a result of right-to-carry laws; isn't  
23 that --

24 A The net effect, yes. Or I should be a little  
25 more clear. The -- there were two parts of the -- in

1 broad terms, two parts of the study. The panel data  
2 study did show fairly strong increases in property crime.  
3 The synthetic controls did not.

4 And since I tend to trust the synthetic  
5 controls more than the panel, I'm sort of leaning to the  
6 view that, whatever the effect is on property crime, is  
7 it's smaller and, therefore, you know, not showing up as  
8 statistically significant in the synthetic controls. But  
9 if you believe the panel data results, then there does  
10 seem to be an elevation in property crime as well.

11 Q A statistically significant increase in  
12 property crime?

13 A Yeah, if you just look at the tables --

14 Q That's the conclusion in your report?

15 A Yes. I mean, it's -- if you look at the  
16 tables, you'll see two asterisks next to the property  
17 crime levels. And that's true with the Brennan Center  
18 study or mine.

19 Q What evidence did you rely on in making the  
20 representation that criminals feel emboldened to steal  
21 guns and carry guns and enforce their will as a result of  
22 a right-to-carry law? What evidence did you look at?

23 MR. EISENBERG: Objection. Misstates the prior  
24 testimony or the report, however you want to characterize  
25 that.

1 THE WITNESS: Well, there's a lot of evidence that  
2 carrying guns outside the home promotes gun theft and  
3 leads to more gun theft, and this has become a big issue  
4 in the public debate now, where many police chiefs are  
5 encouraging people not to take guns out of the home  
6 because the theft problem has become so bad.

7 And so that's just the nature of, you know, the  
8 world we live in now. Guns are probably one of the most  
9 attractive things for criminals to steal. You know, TV  
10 sets are no longer as appealing as they once might have  
11 been to burglars. Much of the time, when criminals are  
12 trying to steal things, they're looking for guns.

13 BY MR. BRADY:

14 Q Have you looked -- have you done any research  
15 on the theft of firearms in public?

16 A I have spent a fair amount of time reviewing  
17 the research. I have not done the research.

18 Q And what does that research say? How do  
19 firearms get stolen in public?

20 A You know, one of the biggest ways is out of  
21 cars. So, you know, here in California, Sean Penn  
22 created quite a stir when he left his two guns in his car  
23 when he went to Chez Panisse for dinner one night, came  
24 back, the car was stolen. Got the car back two days  
25 later. Of course, the guns were now in the hands of

1 criminals.

2 And of course, it's -- it's such a bad problem,  
3 because now the criminals have a gun that can't be  
4 traced, and they can use that gun for whatever purposes  
5 they want.

6 Now, of course I don't think Sean Penn would  
7 ever shoot anybody, but I'm not so sure about the people  
8 that stole Sean Penn's gun, whoever they gave that gun  
9 to. I suspect that those guys probably were shooting  
10 people. And that's one of the main avenues that  
11 right-to-carry laws increase violent crime.

12 Q So just -- I just want to be clear.  
13 Right-to-carry laws -- adoption of right-to-carry laws  
14 result in increased property crime, such as gun thefts,  
15 is that correct, in your report?

16 A Yeah, I mean, I -- I just want to be clear. We  
17 discussed sort of the ambiguities about what the net  
18 effect is on property crime, but we said for -- just  
19 looking at gun thefts, right-to-carry laws theoretically  
20 increase gun theft.

21 Q So I guess what I'm asking -- your -- is it  
22 fair to say the premise of your paper is that the net  
23 effect of right-to-carry laws is the increase of violent  
24 crime on a whole, regardless of a firearm being involved  
25 in the crime?

1 MR. EISENBERG: Objection. Argumentative as to  
2 the word "premise."

3 THE WITNESS: Yeah. I would say that, you know,  
4 one of the main conclusions of the paper is that  
5 right-to-carry laws, on balance, seem to be ticking up  
6 your violent crime rate, you know, maybe a little over  
7 one percent every year for the first ten years.

8 So on balance, they're getting you up into the  
9 neighborhood of 13 to 15 percent after ten years. So  
10 that would be a major conclusion of the study.

11 BY MR. BRADY:

12 Q Okay. And that one percent is a combination of  
13 all sorts of violent crimes? The one percent increase --

14 A Yeah.

15 Q -- is all sorts of violent crimes that you --  
16 or is it just the four that you included in your study?

17 A Yeah, that's just the four. So when I'm making  
18 that statement, I'm using the FBI definition of violent  
19 crime. So that's not including simple assault; it's not  
20 including aggravated assault; and it also includes  
21 murder, rape, and robbery.

22 Q Did you define right-to-carry laws, the term  
23 "RTC," right-to-carry -- do you have a definition for  
24 what is a right-to-carry law?

25 A Yeah, I mean, I -- I simply said when states

1 pass laws that allow anyone who isn't in one of the more  
2 prohibited categories to be able to get a permit if they  
3 jump through a couple of reasonably easy hurdles -- jump  
4 over a couple of reasonably easy hurdles, then I consider  
5 that a right-to-carry.

6 Q Are all right-to-carry -- all right-to-carry  
7 states have the same hurdles?

8 A No. No.

9 Q Did you take into account the difference in  
10 those hurdles in comparing the right-to-carry states?

11 A Yeah, that's a good question. I actually just  
12 had a binary categorization. So at one point I'm saying  
13 you don't have a right-to-carry law at a point, you know,  
14 and I gave a specific month and year in the paper; I say  
15 you do have a right-to-carry law. But there -- there are  
16 differences.

17 And of course, now we're in a world where a  
18 number of states have moved to completely permissive  
19 carrying without the need to get a permit of any kind.  
20 And so if you're one of those states during this period,  
21 it's just counted as being a right-to-carry state, but  
22 you could refine the analysis -- and I did do a slight  
23 effort in this regard.

24 Because I show that when Alaska went to  
25 permitless carry, you saw that violent crime jumped up

1 more sharply after that. So they already had a  
2 right-to-carry law. Then they said permitless, and you  
3 can see a jump in violent crime at that point.

4 The latest examples -- Vermont has always had  
5 this, but the latest example of moving in this direction  
6 are very recent. So I wasn't able to do anything with  
7 those. You know, I gave a 2021 version of this paper.  
8 I'll do a whole section on that.

9 Q Speaking of Vermont, do you know where it ranks  
10 on -- in the 50 states, as far as its crime rate?

11 A Yeah, Vermont -- Vermont looks good. We're  
12 talking about fixed effects though, and they have some  
13 attributes that make them particularly good. New England  
14 state would be better than non-New England state and, you  
15 know, affluence, more rural. Those are all very positive  
16 features.

17 Q Other than the Alaska situation, where it just  
18 went to nothing, is it fair to say you did not account  
19 for the difference in difficulty to obtain a concealed  
20 weapon permit in the various right-to-carry states?

21 MR. EISENBERG: Objection. Lacks foundation.

22 THE WITNESS: Yeah, I -- I only -- except for  
23 Alaska, as you say, I only had this binary categorization  
24 of right-to-carry or not right-to-carry, but I -- I don't  
25 distinguish in this paper. But it's a good -- a good --

1 it's a good question, you know, what will happen if you  
2 tried to tease out how much the hurdles influence the  
3 outcome.

4 You should be a researcher.

5 BY MR. BRADY:

6 Q I don't -- I can't do math, so it's not -- I'll  
7 stick with this racket.

8 So it's possible that those hurdles could  
9 change the amount of people who actually obtain permits;  
10 is that correct?

11 A Yes.

12 Q Have you researched what percentage of the  
13 population actually does obtain a license in  
14 right-to-carry states?

15 A You know what? I've certainly been attentive  
16 to that research.

17 Q But you haven't done any yourself?

18 A No. I mean, I would love to get, you know,  
19 panel data on the number of permits in every state in  
20 every year going back -- that would be nice data to get.

21 Unfortunately, many states have not -- have not  
22 captured that data, which is a loss to the research  
23 community.

24 Q Did you take into account the amount of  
25 licenses that were actually issued? In other words, do



1 you know the numbers of licenses that resulted after a  
2 right-to-carry law was implemented?

3 A You know, I would love to get that data. And  
4 remember, one of the challenges of doing a panel data  
5 analysis is that you can only run it if you have  
6 observations for every variable for every state and year.  
7 Otherwise, for whatever state or year you're missing, it  
8 drops out of the analysis.

9 And there are very few states that you can get  
10 that data for, you know, for the time period that we'd be  
11 interested in. There are a few, but, you know, it's like  
12 four or five as opposed to, you know, the 51  
13 jurisdictions that I would like to have data on.

14 Of course, obviously, for the ones that don't  
15 have right-to-carry, you wouldn't have those. But you  
16 could still -- I mean, in the best of all worlds, you  
17 would like to get information on just how many people  
18 have permits to carry guns in every state. Though  
19 California is not a right-to-carry state, but there are  
20 permits here, and that would be nice information to get.

21 Q Well, speaking of California, are you familiar  
22 with California's concealed weapon permit regime?

23 A Yes.

24 Q You would characterize it as not  
25 right-to-carry?

1 A Yes.

2 Q Even in the -- in the entirety of California?

3 A Well, in terms of the state law, I categorize  
4 it as not right-to-carry. In terms of the way it plays  
5 out, you know, sheriff in Sacramento was, you know,  
6 basically handing them out to anyone who wanted them, you  
7 know, obviously within the contours of the law.

8 Q Did you account for that in your report in  
9 analyzing California?

10 A You know, that has been a more recent  
11 phenomenon. My data only went up to 2014. But I don't  
12 have -- I don't have either county data in this paper or,  
13 you know, specific data on the number of permits that  
14 have been issued. That would be great -- great data to  
15 have. I just don't have that.

16 Q You don't have the data for California  
17 counties, the issuance rate of California counties?

18 A Yeah, I --

19 Q But you were able to isolate California -- you  
20 were able to isolate the lack of a right-to-carry law  
21 statewide in California as being responsible for its not  
22 having an up-tick in crime like the right-to-carry  
23 states?

24 A Yeah, and if you look across the country, you  
25 know, the number of permits in California is vastly

1 smaller than the real right-to-carry states or certainly  
2 permitless carry states now, where people are able to  
3 carry without having to go through the permit.

4 Again, you can see one of the complexities that  
5 researchers have, because when states move from  
6 right-to-carry to permitless, then it's no longer as  
7 helpful to know the number of permits, because a lot of  
8 people say, well, why should I go through the hassle of  
9 getting a permit when I'm allowed to carry it anyway.

10 So the information in the number of permits  
11 gets watered down for the -- I think 12 states now that  
12 have switched over to permitless carry.

13 Q So you conclude in your report that California  
14 during the 1990s -- the fact that it did not have a  
15 right-to-carry law led to its better performance in  
16 reducing violent crime.

17 Is that accurate?

18 A Well, it's a little bit less precise than that.  
19 Again, differentiating between the panel data analysis  
20 and the synthetic controls.

21 For panel data we are thinking in aggregated  
22 terms, again. So when we're saying that, compared to  
23 states that we are categorizing as non-right-to-carry  
24 states, including California, in the aftermath of  
25 adoption, right-to-carry states seem to do worse

1 subsequent to adoption, again, compared to those that  
2 don't adopt right-to-carry laws.

3 And so it's a -- it's an aggregated comparison  
4 of, quote, right-to-carry states versus  
5 non-right-to-carry states. California is, obviously, a  
6 big part of that, because it's a fairly large state, and  
7 it doesn't have right-to-carry laws.

8 But I didn't specifically disaggregate the  
9 results to see, you know, what was California's  
10 contribution to that overall conclusion. So that's the  
11 panel data stuff.

12 Now, synthetic controls I actually do something  
13 a little bit different. There all I say is, for every  
14 state that does adopt a right-to-carry law, can I come up  
15 with a reasonable comparison cohort, this synthetic  
16 control. And there the -- you know, I don't have any  
17 choice at that point.

18 I just run the synthetic control protocol, and  
19 it will pick out the states that are the comparative  
20 state. Sometimes it's California as part of that  
21 synthetic control, but of course, many times it was not.

22 And so for the handful of states that  
23 California was part of the control, then you might draw  
24 the conclusion that you were just suggesting. But again,  
25 it's --

1 Q Well, I wasn't -- just to be clear, I was  
2 quoting from your report that says, quote, "The fact that  
3 California, Wisconsin, and Nebraska did not have RTC laws  
4 led to their better performance in reducing violent  
5 crime." That's a quote from your report.

6 Do you --

7 A Yes.

8 Q Do you not agree with that statement in your  
9 report?

10 A So now you're referring to one of the synthetic  
11 controls comparisons, I believe. And so I can't remember  
12 which state I thought -- was that Texas versus --

13 Q Yes.

14 A So yes. So there we're saying -- we're  
15 comparing those three states, and the percentages that  
16 the synthetic control comes up with as the relative  
17 percentage.

18 And that's the conclusion that comes out of  
19 that particular comparison, that those states are a good  
20 comparative set of states for the violent crime  
21 performance of Texas in the period before they adopted a  
22 right-to-carry law. And that the reason that they  
23 continued to do better than California -- better than  
24 Texas after Texas adopted was that they didn't have a  
25 right-to-carry.

1 Q Why are they good comparisons? Why is  
2 California a good comparison state?

3 A Yeah. So this is simply the nature of the  
4 synthetic control approach. It's not a choice that I  
5 make in my own decision-making. It allows the  
6 maximization routine that Abadie created to pick out the  
7 states that will best mimic the pattern of crime that we  
8 see in Texas.

9 And so if you look at the picture, it's a  
10 fairly wavy pattern of violent crime, and the best  
11 mimicking of that pattern comes from taking those three  
12 states and the percentages that I indicate in the figures  
13 to come up with the, quote, synthetic control, which is  
14 essentially trying to identify, had Texas not adopted a  
15 right-to-carry state, this is our best guess as to what  
16 crime would have looked like in the ten years after 1996.

17 Q So it's a guess?

18 A Well, we like to say a prudent estimate.

19 Q Sure.

20 But that goes -- you do say suggest. Your  
21 conclusion in your report says the evidence suggests,  
22 right? So you could be wrong; is that correct?

23 A Oh, yes. You know, there's no -- there's no  
24 certainty in doing empirical work. It's all a matter of  
25 craftsmanship and following appropriate protocols to get

1 the best estimate that we have, but as we mentioned with  
2 statistical significance, one out of 20 times, a pure  
3 random effect will show up as, quote, statistically  
4 significant, and so you always have to be aware of the  
5 possibility that you got stung by a, you know, spurious  
6 result.

7 Q So -- but you try not -- for that, you try to  
8 get at the best result, right?

9 A Yes, yes, yes.

10 Q And you've indicated that an important factor  
11 in getting there is law enforcement, correct?

12 A Yes, yes.

13 Q In comparing California and Texas, did you --

14 A Yes.

15 Q -- consider the fact, during the '90s, that  
16 California had a three-strikes law and Texas did not?

17 A You know, I only considered the levels of  
18 incarceration of the two states, and so I was controlling  
19 for, you know, how many people were in prison relative to  
20 the population in the various states.

21 But I didn't do a more refined assessment of  
22 how much incarceration was playing a role in the, you  
23 know, crime rate of the states beyond that factor.

24 Q Did you consider the impact of inventions of  
25 antidepressants like Prozac during that time period?

1 MR. EISENBERG: Objection. Lacks foundation.

2 THE WITNESS: So that's an interesting question.

3 The --

4 BY MR. BRADY:

5 Q I'm just curious if you did consider it or not.

6 A Yeah, I actually did consider it. Because it's  
7 an important and interesting thought. The -- and this is  
8 one of the areas that people think of as panel data  
9 capturing a year fixed effect.

10 So as something like antidepressants came into  
11 America, they're sort of diffusing throughout the  
12 society. And as long as they're diffusing uniformly,  
13 then the year fixed effect is picking that up. If they  
14 were -- if they were diffusing less than uniformly, then  
15 your year fixed effect is not picking it up.

16 So I did think about this, and I thought, given  
17 the data limitations, that the best assumption I can make  
18 on this ground is that it's something captured in the  
19 year fixed effect, but if -- if you had good data, you  
20 could refine that assumption and try to see where  
21 antidepressants of one kind are coming into different  
22 jurisdictions.

23 Q Did you consider the impact of abortion rates?

24 A I certainly did, yes.

25 Q Do Texas and California have similar rates of



1 abortion?

2 A No, they probably don't. Off the top of my  
3 head, I don't really know what Texas rates are, but I  
4 assume that they're lower.

5 Q Did you consider the impact of gun control laws  
6 other than the right-to-carry?

7 A The only one that's explicitly considered in  
8 the panel data analysis is the right-to-carry law. The  
9 synthetic controls, which is -- again, one of the great  
10 features of the synthetic controls is anything that  
11 differentiates crime performance in the preadoption  
12 period will be taken into account, as the synthetic  
13 controls protocol tries to identify the appropriate  
14 synthetic controls.

15 So let's say that -- you know, getting back to  
16 Texas, where I think we said Wisconsin, California, and  
17 one other state --

18 Q Nebraska?

19 A -- Nebraska were the controls.

20 Whatever they're doing in those states is -- in  
21 the preadoption period of 1996 is mimicking the Texas  
22 experience, and as long as those factors stay the same  
23 going -- subsequent to 1996, then we're getting an  
24 unbiased estimate of the impact of right-to-carry.

25 But if, for example, the world changes

1 dramatically for other reasons in Texas vis-a-vis those  
2 three states, then you may be getting a less accurate  
3 estimate of what the impact in right-to-carry laws is.

4 Q So if California adopted lots of gun control  
5 laws post 1996 --

6 A Yeah.

7 Q -- that would affect the results of the  
8 comparison between Texas and California?

9 A Yeah. Anything --

10 Q I'm sorry, was that a yes?

11 A Well, I have to be a little precise here.  
12 Anything that, "A," influences violent crime; and, "B,"  
13 changes differentially after the adoption in the  
14 synthetic controls analysis will impair the accuracy of  
15 your estimate.

16 And so -- you know, to just get a precision,  
17 let's say that, prior to 1996, this combination of  
18 California, Wisconsin, and Nebraska is a perfect  
19 mimicking of Vermont and Texas, but then after 1996  
20 California changes, really, any major law that impacts  
21 violent crime, and nobody else changes anything. Then  
22 that is going to give you a less accurate picture of what  
23 the true impact of right-to-carry law was in Texas.

24 Q So if California did adopt several gun control  
25 laws post '96 and adopted a three-strikes law post '96,

1 that would call into question the accuracy of the  
2 comparison between -- the accuracy of the conclusions of  
3 comparing Texas and California?

4 A If the factors that you mention only impacted  
5 the controls and not the treatments -- so in other words,  
6 California, Wisconsin, and Nebraska, or some part of  
7 them, and not the treatment group, Texas, then that would  
8 render your estimate less accurate.

9 But of course, something could be happening in  
10 Texas to upset it and -- and I think the -- maybe the  
11 most important thing about the synthetic controls --  
12 which is also true for the panel data -- is that we get  
13 much better aggregate estimates than we get single-state  
14 estimates. Because they're -- for just the reason you  
15 mention.

16 There is noise in any single-state estimate,  
17 but then when we average over 33 states, that noise will  
18 tend to bounce out. So I would not put a lot of emphasis  
19 on a single-state estimate.

20 So I was just on NPR yesterday, and David  
21 Kopel, who is an NRA spokesperson, said, Oh, you know,  
22 I'm in Colorado, and it looks like our law didn't have an  
23 increase in crime.

24 And I didn't -- I didn't have time to say this,  
25 but I would say, Well, I wouldn't believe a single-state

1 estimate, really, as much as the aggregated estimate,  
2 because the noise will tend to be averaged out in the  
3 aggregate estimate, while you do have to deal with the  
4 noise in the individual-state estimates.

5 Q The increase in violent crime rates that you  
6 conclude occur as a result of RTC laws, is it the holders  
7 of carry licenses that are committing this crime?

8 A You know, some of it is done by the carry  
9 holders. I mean, just in the last couple of days you  
10 have the horrible case of road rage, shooting a woman in  
11 the head in Pennsylvania. And the other on the guy  
12 coming home from the wedding drunk in his Uber and kills  
13 his wife by shooting her in the head.

14 So those were permit holders. And those were  
15 crimes that almost certainly would not have happened, had  
16 there not been a right-to-carry law in place. These were  
17 generally law-abiding people, and it was only the quick  
18 access to guns that allowed them to commit these crimes.

19 But a lot of the crime is also committed by the  
20 people who steal the guns that the permit holders  
21 essentially turn over to them. So -- you know, I mean,  
22 there's no question that more guns are stolen from  
23 law-abiding citizens than are used defensively.

24 Q On what do you base that?

25 A Tons of studies and evidence.

1 Q Can you cite one?

2 A Yeah. I mean, there are lots of them but, you  
3 know --

4 Q Is that reflected in your report?

5 A Yeah, I mean, I wasn't -- I wasn't focused on  
6 that precise question.

7 Q Well, you were focused on the theft of -- you  
8 were focused on property crime and your -- correct me if  
9 I'm wrong. Your position's that the theft of firearms is  
10 a significant element of the increase in crime, both  
11 property crimes -- being a property crime and in violent  
12 crime, because they use those guns; is that not correct?

13 A Yes. And I think that that's true and --

14 Q So you have no support of the vast evidence out  
15 there that more guns are stolen than used in self defense  
16 in your paper?

17 A No, I -- and I'd have to look back to see if  
18 I've cited this literature, but I certainly could cite  
19 that literature.

20 Q Can you give me an estimate, based on having  
21 reviewed that literature -- do you feel comfortable  
22 making an estimate about how many self defense gun uses  
23 there are in a given year?

24 MR. EISENBERG: Objection. Outside the topic.

25 Actually, could we go off the record for a

1 second?

2 MR. BRADY: I do have a question pending.

3 MR. EISENBERG: Let him answer the question, but  
4 then could we go off?

5 MR. BRADY: Sure.

6 THE WITNESS: Can you define self defense gun  
7 uses?

8 BY MR. BRADY:

9 Q I mean, I guess you're the one who raised the  
10 point that it is clear that there's more gun thefts than  
11 more defensive gun uses. So I guess I'll use your  
12 definition. And I would ask that you define that.

13 A Yeah. So I would say there's no question that  
14 hundreds of thousands of guns are stolen in the United  
15 States every year. Every study that has looked at this  
16 has documented that. And there is more question about  
17 how many defensive gun uses there is.

18 But if your metric is legitimate lawful uses of  
19 guns to thwart violent crime, there's no question in my  
20 mind that that number is a small fraction of the number  
21 of guns stolen in the United States. No question in my  
22 mind.

23 Q But on what do you base that --

24 MR. EISENBERG: Wait. Actually, could we --

25 MR. BRADY: Now you can. Remember, On what do you

1 base that?

2 (Brief recess taken.)

3 BY MR. BRADY:

4 Q So we're back on the record. The question  
5 pending was, On what do you base that? in response to  
6 your assertion that the number of firearms stolen far  
7 exceeds the number of self defense gun uses.

8 A Yeah, and again, I did -- I did qualify, saying  
9 legitimate lawful use of guns to thwart violent crime.

10 Q Sure.

11 A And I would put that number -- it was  
12 imprecision around this, but maybe in the 50-60,000.

13 Q And on what do you base that number?

14 A You know, a lot of evidence. It's not just one  
15 study. National Crime Victimization Survey, a lot of  
16 work done by David Hemenway. And if you read that entire  
17 literature -- you know, obviously, you're not going to  
18 come up with a precise number, but you get a ballpark.

19 And the number for the defensive uses I'm  
20 talking about is, you know, in the neighborhood of  
21 50-60,000. But the number of thefts is in the hundreds  
22 of thousands. And no one questions the number of thefts.

23 Q But people do question the number of self  
24 defense gun uses, correct?

25 A Yes.

1 Q You said, unquestionably, the number of firearm  
2 thefts outnumbers the number of self defense gun users,  
3 right?

4 A Yeah. No, I was just saying unquestionably for  
5 me.

6 Q For you, but that's not a definite fact,  
7 correct?

8 A You know, it's hard to come up with a precise  
9 number for that sort of question --

10 Q So it's not a definitive fact?

11 MR. EISENBERG: Let him finish.

12 THE WITNESS: It's hard to come up with a precise  
13 number, but you can, I think, come up with reasonable  
14 ballparks, and so I -- and the relative magnitudes are  
15 such that I feel very confident saying the number of guns  
16 stolen is far above the number of those defensive gun  
17 uses.

18 BY MR. BRADY:

19 Q Are you including in those self defense gun  
20 uses instances where people do not actually discharge the  
21 firearm?

22 A Yes. Yes.

23 Q So the mere -- you're including just the mere  
24 presence of a firearm to deter somebody?

25 A Well, I mean, I --



1 Q I have a gun. Back off.

2 A Yeah. Yeah. So I would include that. But I  
3 wouldn't include it for a guy who's open carrying,  
4 walking down the street and comes home and says, Nobody  
5 shot me today, so that shows I avoided a murder, because  
6 I have a gun on, which I think some people might be  
7 inclined to say.

8 Q So in your report you say police simply, quote,  
9 "underestimate criminality by permit holders."

10 What evidence do you rely on in concluding that  
11 is the case?

12 A Oh, maybe you can just --

13 MR. EISENBERG: Are you referring to a specific  
14 page in his report?

15 MR. BRADY: You know, I just wrote that down. I  
16 figured with a claim like that, he might remember.

17 THE WITNESS: Yeah.

18 MR. EISENBERG: Paragraph 21 maybe?

19 THE WITNESS: Okay. So this was the misstatement  
20 by Sheriff Jones, when he said, No one has ever been shot  
21 by a holder of a concealed weapons permit issued by this  
22 office, yet he had just signed a letter a couple of  
23 months earlier, revoking the permit of somebody that shot  
24 somebody in the head. So --

25 BY MR. BRADY:

1 Q Is that your only example of police, quote,  
2 "underestimating criminality by permit holders"?

3 MR. EISENBERG: Let the record reflect that I  
4 suggested Paragraph 21. We're not sure where that  
5 reference that you're saying is in the report right now.

6 MR. BRADY: Okay. I can find it. I just figured  
7 it's Professor Donohue's report, and that's a pretty  
8 strong claim. I figured he'd be able to find that.

9 MR. EISENBERG: Do we have another copy of the  
10 report, so I can look through it?

11 THE WITNESS: Here it is.

12 MR. EISENBERG: Did you find it?

13 (Discussion off the record)

14 MR. EISENBERG: That's not -- his quote has the  
15 word "police" in it.

16 THE WITNESS: It's possible Kleck said that.

17 BY MR. BRADY:

18 Q All right. Let's -- we will -- all right.

19 Rather than focusing on the specific words, do  
20 you agree with that general premise, that police  
21 underestimate criminality by permit holders?

22 A Yeah, I mean, I'm -- I don't really have a  
23 strong feeling on -- or a strong sense of what police are  
24 estimating.

25 Q So your report doesn't rely in any way on -- in

1 reaching the conclusion that crime rates -- violent crime  
2 rates rise as a result of RTC laws, that doesn't depend  
3 at all on the reporting of -- the underreporting of  
4 criminal behavior by license holders?

5 MR. EISENBERG: Objection. Vague, ambiguous,  
6 compound.

7 If you understand the question, please answer.

8 THE WITNESS: Yeah, I don't think my report relies  
9 on that.

10 BY MR. BRADY:

11 Q Okay. Your report does rely on the website  
12 Concealed Carry Killers, correct?

13 A I --

14 MR. EISENBERG: Objection. Vague as to the word  
15 "relies."

16 THE WITNESS: I mean, I referenced it for a  
17 specific purpose.

18 BY MR. BRADY:

19 Q What was that purpose?

20 A For many years John Lott actually would say  
21 things like no concealed carry permit holder has ever  
22 committed murder. And this is a website that tries to  
23 capture some of those instances.

24 So I put that in to say, Don't believe some of  
25 the claims about right-to-carry permit holders never

1 committing murder, because here's a listing of many of  
2 those cases.

3 Q And you believe that that listing on the  
4 Concealed Carry Killers website is a credible source?

5 MR. EISENBERG: Objection. Vague and ambiguous as  
6 to "credible."

7 THE WITNESS: You know, I think there were  
8 actually some problems with that website when they first  
9 released that information and it was criticized, but they  
10 have cleaned up the website quite a bit since then,  
11 and -- for what they're trying to do, I think it's a  
12 useful resource of highlighting certain behaviors on the  
13 part of permit holders, that show that they engage in  
14 behavior that would either be criminal, reckless, or  
15 suggestive of not being the sort of person you want  
16 carrying guns around.

17 BY MR. BRADY:

18 Q Do you know who operates the website?

19 A I don't really know. I assume it's some  
20 advocacy group that puts together this information, but  
21 I'm not -- I'm not particularly sure which group it is.

22 Q So you don't know what group it is.

23 Do you know its process in putting together the  
24 accounts that it lists on its website?

25 A You know, they cull through news reports,

1 certain killings, accidents, and suicides to sort of  
2 identify cases where permit holders engaged in one of  
3 those acts.

4 Q Are news reports generally a source that people  
5 in your field rely on as credible sources?

6 MR. EISENBERG: Objection. Vague and ambiguous,  
7 particularly as to context.

8 THE WITNESS: It's a good question.

9 BY MR. BRADY:

10 Q I thought it was vague and ambiguous, but go  
11 ahead.

12 MR. EISENBERG: It is. Doesn't make it a bad  
13 question. Just makes it an objectionable question.

14 THE WITNESS: But in this arena -- you know, among  
15 my research of the crime, there's -- some of the best  
16 studies are actually relying on these sorts of ways to  
17 capture data.

18 So for example, I was involved with the FBI in  
19 a conference where we were trying to figure out how many  
20 people are killed by the police every year. And the FBI  
21 actually puts out a number, saying number of citizens  
22 shot by -- you know, killed by police. And the number is  
23 wildly off. And it was really only, you know, studies of  
24 this kind that were able to give a more accurate picture.

25 So it's certainly not perfect, but for what

1 it's trying to do, which is to at least identify  
2 instances of these acts, it's not bad.

3 In the same way that, you know, the NRA and  
4 other pro-gun groups will put together a list of  
5 defensive gun uses, which, you know, they -- as your  
6 question suggests, you do have to be careful about the  
7 advocates, because they will spin things in their own  
8 direction or have a tendency to do that.

9 But I find it useful to see the cases of  
10 defensive gun uses. A lot of times I follow up on them  
11 and find out no, it's completely wrong and --

12 BY MR. BRADY:

13 Q So the -- you said that they look at news  
14 reports.

15 How do you know that they consider news reports  
16 in developing this list?

17 A In the Concealed Carry Killers?

18 Q Yes.

19 A Oh, I've spoken to those people.

20 Q Did they tell you that they consider anything  
21 else?

22 A Yeah, I mean, they -- they are -- they're doing  
23 exactly what the NRA does.

24 Q What is -- I'm asking what they're doing.

25 News reports. Do they consider anything else?

1           A   Yes.  They -- they are trying to identify cases  
2   through either news reports or police reports and other  
3   publicly available information -- they'll contact police  
4   departments to get follow-up information.

5           And it really is not very different a  
6   methodology than the NRA lists of, you know, defensive  
7   gun uses.  They're all trying to do the same sort of  
8   thing.

9           Q   So you spoke with them?

10          A   I have.

11          Q   But you didn't know who put on the Concealed  
12   Carry Killers website when I asked you who puts it on.

13          MR. EISENBERG:  Objection.  Vague and ambiguous as  
14   to "who."

15          THE WITNESS:  Yeah.  I mean, I assume --  
16   BY MR. BRADY:

17          Q   Just do you not -- when I asked, Do you know  
18   who puts -- who hosts the Concealed Carry Killers  
19   website? you indicated you did not know which group; is  
20   that correct?

21          A   I -- I assume it's a certain group.  I didn't  
22   want to state with a hundred percent certainty, because  
23   I'm not a hundred percent certain, but I assume it's the  
24   Violence Policy Center, if that's the name of it.

25          Q   Did you speak with the Violence Policy Center?

1 A I have spoken to them over years, yes.

2 Q And so it's the Violence Policy Center that  
3 puts this on. Looking at news reports, police reports.

4 Is it your understanding -- have you personally  
5 evaluated the incidents that they list on their website  
6 of homicides purported to be committed by license  
7 holders?

8 A I certainly haven't gone through all of them.  
9 I know many of these through my own work, and I observed  
10 how they have changed their documents in response to  
11 either new information or criticisms of the information.  
12 I do think they're really fairly good at correcting  
13 errors. You know, they're --

14 Q On what do you base that assessment, that  
15 they're fairly good at correcting errors?

16 A Just if you look at the way that website has  
17 been maintained over the last couple of years, they  
18 definitely have made changes in response to criticisms.

19 Q So you've been following their website for  
20 years?

21 A I have seen the website and followed the  
22 criticism of it for years, yes.

23 Q Okay. Is it -- are you aware that 40 percent  
24 of the homicides that they list purported to be committed  
25 by license holders are all from the State of Michigan?



1 MR. EISENBERG: Objection. Lacks foundation.

2 MR. BRADY: Let me strike that.

3 Q If 40 percent of the homicides purported to be  
4 committed by license holders on their list were from a  
5 single state, would that cause concerns for your  
6 assessment -- would that cause you concern about the  
7 credibility of that list?

8 A You know, it would certainly be something you'd  
9 want to investigate and you'd be interested in. If the  
10 40 percent are accurate, that would -- that wouldn't be a  
11 concern, but if the 40 percent were inaccurate, then that  
12 would be a major concern.

13 Q What would be a legitimate reason that 40  
14 percent of all of the incidents are from a single state?

15 MR. EISENBERG: Objection. Calls for speculation,  
16 outside the scope of the expert testimony.

17 You may answer if you understand.

18 THE WITNESS: You know, we -- you could imagine  
19 that the NRA didn't get a gag law passed in Michigan, and  
20 they'd have better information in Michigan about what the  
21 permit holders were doing. I don't know I -- this is the  
22 first time I heard that claim.

23 But, you know, it -- under one set of facts, it  
24 could be suggestive that this is a wild understatement of  
25 the number of misconducts by permit holders. On another

1 set of facts, it could be a sign that there's something  
2 wrong with their calculation. And unless I investigated  
3 that further, I wouldn't know the answer.

4 BY MR. BRADY:

5 Q You did at least some investigation into their  
6 quality control on this website, though, correct?

7 A Yes. Yes.

8 And I think they even advertise, you know, if  
9 anyone has any information that something is inaccurate  
10 here, you know, send it to us, and they actually do  
11 change in response to those bits of information.

12 And for example, they will -- if somebody -- if  
13 a permit holder kills somebody, they might list them, and  
14 then let's say it turns out it's ruled justifiable  
15 homicide. Then they would take that off. That's, I  
16 think, responsible.

17 Q Would it be problematic if the 40 percent of  
18 purported incidents by license holders from Michigan was  
19 a result of double- or triple-counting newspaper  
20 articles, court records, arrest records, conviction  
21 records? Would that be problematic?

22 A Yeah, and I think in the early incarnation of  
23 this website, they did have problems of that kind, and I  
24 think they responded to the criticisms and have sort of  
25 culled the website to eliminate any double countings or

1 problems --

2 Q So you think they've addressed that problem in  
3 their current list?

4 A Yeah, I mean, I don't know about the Michigan  
5 component, but I know that they were criticized for some  
6 double countings and then responded to that by culling  
7 the data.

8 Q Have you done any studies on suicides in this  
9 country?

10 A I've worked a little bit on suicide, yes.

11 Q In your work have you made any determinations  
12 on where suicides occur most often?

13 MR. EISENBERG: Objection. Outside the scope of  
14 expert testimony in this case.

15 THE WITNESS: Yes, I have looked at suicide rates  
16 across the United States.

17 BY MR. BRADY:

18 Q And where do suicides occur most often? I'm  
19 sorry, let me qualify that.

20 I'm talking about -- not what state. I'm  
21 talking about whether in someone's home? In their place  
22 of business? At a family member's house? Where does --

23 A Yeah.

24 Q -- suicide normally take place?

25 A I mean, I would assume most of the time the

1 suicides are at home. You obviously see -- you know, in  
2 the mass shooting cases, it's usually out on the road  
3 somewhere, but those are relatively rare as a portion of  
4 the total body of suicides. I'd say most of the time at  
5 home.

6 Q The Concealed Carry Killers website includes on  
7 its list of incidents by license holders suicides; is  
8 that correct?

9 A Yes.

10 Q Is there any state that you're aware of in your  
11 study that requires a concealed weapon permit to be able  
12 to have a firearm in the home?

13 A No.

14 Q So then do you think it's problematic that this  
15 website lists suicides by license holders as if -- strike  
16 that.

17 Why are suicides relevant to the question of  
18 violent crime by right-to-carry laws?

19 A Yeah. That's a good question.

20 Q Full of 'em.

21 A I mean, essentially, there are -- there are two  
22 elements here. One is who are the people that are  
23 getting right-to-carry permits? Are these people that we  
24 are comfortable having guns?

25 If we find out they're killing themselves at a

1 high rate, my first thought is, well, I'm probably not  
2 comfortable that these guys are having guns. If the  
3 question is does the adoption of a right-to-carry law  
4 increase the likelihood of suicide, then the answer is  
5 it's less clear, because, as you say, if you already got  
6 a gun in the home, you don't need a right-to-carry permit  
7 to kill yourself with a gun. You can just go home and  
8 kill yourself.

9 On the other hand -- as always, there's nuance  
10 here. A certain number of people who didn't have a gun  
11 before said, Oh, now I can carry a gun. Let me go out  
12 and get a gun. And clearly, we know if you have a gun,  
13 you are increasing the risk that you're going to be one  
14 of the ones who's going to end up committing suicide with  
15 a gun.

16 Q Do you know whether the reported incidents on  
17 Concealed Carry Killers includes suicides only by guns,  
18 or does it include suicides by any means of a license  
19 holder?

20 A I don't know the answer to that.

21 Q If it included all, would that be problematic?

22 A No. If -- again, if you're -- you have to  
23 understand the context of the debate in this area. The  
24 claim made by the pro-right-to-carry and pro-gun  
25 activists is that the permit holders are the good guys

1 with a gun. They are to be trusted completely. They  
2 will never do anything wrong, because they're the good  
3 guys.

4 And so the Violence Policy Center was  
5 criticized for the study of suicides. They were even  
6 criticized for things like putting in intentional  
7 homicides, saying, look, if somebody's going to commit an  
8 intentional homicide, we don't think that should be in  
9 there, because they'd do that without a right-to-carry  
10 law.

11 But that missed the point of this website,  
12 which is to say you want to give guns to people that are  
13 going around intentionally killing people. You want to  
14 give guns to people who are so depressed that they're  
15 killing themselves. They're jumping off buildings;  
16 they're hanging themselves. These are not the sort of  
17 people I would feel comfortable having a gun.

18 Q Okay. So then are background checks for -- is  
19 there a difference between right-to-carry states that  
20 have background checks and those that do not in the pool  
21 of license holders?

22 In other words -- let me -- is there a  
23 difference in their propensity for violence crime?

24 MR. EISENBERG: Objection. Vague and ambiguous as  
25 to multiple terms. Also outside the scope of the

1 expert's testimony.

2 THE WITNESS: So I just want to be cautious here.  
3 Is the question do background checks sort of improve the  
4 caliber of the people who are carrying guns? Is that --  
5 BY MR. BRADY:

6 Q Yeah, is it reasonable to say that a background  
7 check could account for potential issues with the pool  
8 versus a non-background check?

9 MR. EISENBERG: Vague and ambiguous as to  
10 "background check."

11 THE WITNESS: Yeah. I mean, I do think background  
12 checks can help, but I think every state that issues  
13 permits makes you go through a background. I could be  
14 wrong, but I think that's true. And --

15 BY MR. BRADY:

16 Q So you don't know whether all the states  
17 require background checks in right-to-carry laws?

18 A Yeah. I would have said they did, but I  
19 thought your question was that some states had background  
20 checks and some didn't, and would that differentiate.

21 Q That was a hypothetical. I don't know but I --  
22 now I'm asking you -- but do you know whether --

23 A Yeah. I mean, the only reason why I hesitated  
24 was I thought you were positing that it wasn't true. So  
25 if you had asked me, I would have said yes. If you want

1 a permit, you have to go through a background check.

2 Q Do you dispute that license holders have a  
3 significant impact on stopping shootings?

4 A By mass shootings?

5 Q Sure.

6 MR. EISENBERG: Vague and ambiguous as to  
7 "significant."

8 THE WITNESS: Yeah, I think the evidence shows  
9 that it's very, very unusual for a permit holder to play  
10 any positive role in a mass-shooting incident.

11 BY MR. BRADY:

12 Q So mark as exhibit wherever we are --

13 THE REPORTER: It's 12.

14 MR. BRADY: -- 12.

15 (Exhibit 12 was marked.)

16 BY MR. BRADY:

17 Q Have you seen this document before?

18 A No, I've never seen this before.

19 Q Have you -- what evidence did you rely on in  
20 concluding that license holders do not stop shootings?

21 A The FBI actually did a study on this and looked  
22 at a hundred and 60 cases between 2000 and 2013 that met  
23 their definition of active shooting incidents. And they  
24 found that, you know, police stopped them a lot; suicide  
25 by the killer stops them a lot; unarmed citizens stopped



1     them 21 times. But -- security guard stopped them  
2     occasionally.

3             But there was only one case -- so 1-21 of the  
4     number of times stopped by an unarmed citizen was a  
5     permit holder able to stop one of the hundred and 60  
6     cases they looked at, and that guy was an active-duty  
7     Marine who quite well could have stopped the thing  
8     without a gun regardless. But that is always an  
9     uncertainty as well.

10            So the bottom line is, you know, I would not  
11     put much confidence in non-active-duty military person  
12     being much help in a mass shooting incident.

13            Q   On what do you base that?

14            A   Well, I just mentioned the FBI study. If this  
15     had been a frequent occurrence, you would have seen it  
16     happen more than one out of a hundred and 60 times.

17            Q   Is it possible, as is indicated in this article  
18     that we're looking at, Exhibit 12, that citizens who stop  
19     mass public shootings don't get news coverage because  
20     they stop anyone from being killed?

21            A   I mean, that is an interesting point. How much  
22     of a role is played by people who shoot someone very  
23     quickly, and what would have happened in the aftermath.  
24     And so that's worth thinking about, which is why I said I  
25     do spend time looking at the NRA defensive gun use

1 listings, because I think those are useful information to  
2 be thinking about.

3 Q But you've never considered Exhibit 12 before?

4 A I haven't seen this before. This is -- looks  
5 like it's put out by John Lott.

6 Q Yeah, he is the head of Crime Research,  
7 correct?

8 A Yeah.

9 Q I believe that's who put this out.

10 A Yeah. Yeah, so it's worth looking at.

11 I should note that Lott and I were asked to  
12 write something for the New York Times after Gabby  
13 Giffords was shot, and Lott wrote, you know, too bad  
14 there weren't more Joe Zamudios there, because he was the  
15 one who sort of saved the day at the Gabby Giffords  
16 shooting.

17 And then it turned out Joe Zamudio, who did  
18 have a permit, says, Thank God I never took my gun out,  
19 because I thought that the guy who had just tackled the  
20 shooter was the bad guy, and I would have shot the savior  
21 rather than the killer.

22 So the -- while Lott was pretending that the  
23 good guy with the gun had stopped things, it was the good  
24 guy without the gun who had stopped it, and Zamudio  
25 truthfully, amazingly, said if I had taken my gun out, I

1 would have shot the wrong person.

2 And that's, of course, one of the things you  
3 worry about in these episodes. It's hard enough for the  
4 police to shoot the right person, but it's probably  
5 harder for non-active-duty military to step in and get  
6 the bad guy.

7 Q So without -- how can you determine whether  
8 there's a benefit to concealed carry if you don't know  
9 the universe of self defense gun uses?

10 A Well, I mean, that's what my whole study is  
11 trying to find out. Do we see any evidence that murders  
12 go down or violent crime goes down, and all of the  
13 evidence seems to point in the opposite direction.

14 So the more -- the more examples of these you  
15 can come up with, the more I think, oh, right-to-carry's  
16 even worse than I thought, because whatever this number  
17 is, it's outweighed by the harmful incidents, and I'm  
18 only looking at net effects, and the net effects are very  
19 harmful.

20 Q So the more self defense gun uses there are,  
21 the worse the problem is?

22 A That means the more --

23 MR. EISENBERG: Let me interject. Earlier  
24 Professor Donohue was pointing to this Exhibit 12 when he  
25 was speaking. But of course, the pointing doesn't get

1 recorded by the court reporter.

2 THE WITNESS: Yes.

3 Yeah. I mean, let's just say a right-to-carry  
4 law goes into effect, and, you know, the net effect is a  
5 hundred more people die because right-to-carry law went  
6 into effect. If you then come and say, Oh, but look at  
7 the 200 lives we saved, that would mean that 300 other  
8 lives were lost. So the higher the number of defensive  
9 gun uses are that saves lives, if the net effect is to  
10 lose lives, that means there's an even bigger stimulative  
11 effect, right?

12 BY MR. BRADY:

13 Q Are the lost lives the attackers against whom  
14 the people were defending themselves?

15 A No, because that would -- it's never a crime to  
16 shoot someone who's doing serious bodily injury --

17 Q I guess I didn't follow.

18 Who were the lost lives you were referring to?

19 A Well, I mean, that's what all of these panel  
20 data/synthetic control studies are trying to identify,  
21 what is the net impact on crime.

22 And so every study that I can describe is  
23 showing violent crime is up rather than down, and  
24 therefore, if somebody is saying, oh, but X-number of  
25 times permit holders are reducing violent crime, that is,

1 ipso facto, establishing that X-plus some number of times  
2 right-to-carry laws are increasing crime.

3 So it -- really, the only thing that's  
4 important to know if you want to know whether  
5 right-to-carry laws are decidedly beneficial is what's  
6 the net effect on crime. If it goes up, then they're  
7 harmful. If it goes down, then they're beneficial.

8 If there's no effect, then it's probably  
9 harmful in making all these people wasting their money  
10 buying guns and carry them around, which is a pain in the  
11 neck.

12 Q So getting down to the nub of the issue, do you  
13 agree that license holders have stopped some acts of  
14 crime?

15 A Yes.

16 Q Knowing that fact, is it also possible that  
17 some license holders have deterred crime?

18 A Yeah, it's an interesting question how much  
19 criminals are dissuaded by the fact that there are more  
20 people carrying guns around that they might be seeking to  
21 attack in some way.

22 Again, I'm interested in the net effect. And  
23 also, it'd be interesting to know how many criminals  
24 start carrying guns because now permit holders are  
25 carrying guns.

1 Q Does your -- do you have any data to suggest  
2 that, to support that notion?

3 A Yeah, well, we have lots of data that more  
4 criminals acquire guns through theft when right-to-carry  
5 laws are passed. So that means they have the gun, and I  
6 assume that when a criminal has a gun, they're more  
7 likely to carry it around.

8 But I'm also talking about another nuance here,  
9 which is, you know, yesterday the criminal was thinking,  
10 you know, I'm going to sneak into that house and  
11 burglarize it, and if you're in an area where you're  
12 concerned about facing guns, does that change the  
13 calculus.

14 So you would say, I should have a gun too, and  
15 if that's the case, then we would assume that when a  
16 state goes right-to-carry, that means the criminal who's  
17 thinking about robbing someone goes, Well, if I do this,  
18 I better carry a gun too.

19 Q Could it also possibly change the calculus to  
20 say -- for the criminal to say, It's now too costly to do  
21 this crime?

22 A Yeah, I think --

23 Q Therefore, I'm not going to do it?

24 A I think it probably does both to some degree.  
25 It's just that the harmful effects seem to outweigh the

1 beneficial effects.

2 Q Your study controls for that -- the difference  
3 there between those two?

4 A I mean, I can't tell the individual components.  
5 All I can say is, you know, what's the net effect. And  
6 if the -- if the only effect were benign, then we'd see  
7 crime go down, and -- I mean --

8 Q So how can you determine that right-to-carry  
9 laws increase violent crime when you can't at least  
10 control for the individual actions of the criminals?  
11 Isn't that vital?

12 A Again, we -- whether we're looking at the  
13 impact of police on crime, incarceration on crime, all we  
14 really know is the net effect. I mean, there's no  
15 question that some people go into prison and it makes  
16 them more violent and degrades their ability to work, and  
17 so that is a stimulus to crime.

18 Q But you're guessing as -- that the net effect  
19 is what it is because of a right-to-carry law, right?  
20 Because you can't link the criminal who commits a crime  
21 without a firearm to the fact that there's a  
22 right-to-carry law; can you?

23 MR. EISENBERG: Objection.

24 THE WITNESS: I mean, I'm --

25 MR. EISENBERG: Let me finish my objection,

1 please.

2 Lacks foundation, overly long, so it's a bit  
3 confusing.

4 You may answer.

5 THE WITNESS: Okay. I mean, I don't see this as  
6 any different from trying to identify the effect of  
7 incarceration on crime. There are multiple pathways.

8 We can't fully assess how much of the increase  
9 in incarceration is operating through incapacitation, how  
10 much is through deterrence, how much is that being offset  
11 by the stimulus of crime that incarceration imposes.

12 But at the end of the day, we have pretty good  
13 estimates of, if you increase your prison population by  
14 "X," what impact is it going to have on crime? And we  
15 have pretty strong evidence the net effect is crime is  
16 going to go down if you look at those people.

17 And the same is true with right-to-carry laws.  
18 We don't know all of the individual influences, but the  
19 evidence now seems to be pretty strong that if you pass a  
20 right-to-carry law, you're going to see more violent  
21 crime rather than less violent crime.

22 That doesn't say there isn't some deterrence.  
23 That doesn't suggest there aren't some cases where  
24 defensive gun use worked, but it just means that those  
25 are outweighed by the pernicious consequences of



1 right-to-carry.

2 BY MR. BRADY:

3 Q Okay. In your report you assert that  
4 right-to-carry laws are a tax on law enforcement; is that  
5 correct?

6 A Yes.

7 Q What data do you rely on to conclude that?

8 A (No audible response)

9 Q Actually, let me -- what does it mean to be a  
10 tax on law enforcement?

11 A Yeah, that there's a metaphor in there, and  
12 what I was trying to suggest is that right-to-carry laws  
13 impose burdens on police in a number of different ways.

14 And, you know, first of all, they take up more  
15 police time just to process, and there's been a lot  
16 written about this. You know, we're spending huge  
17 amounts of time dealing with all these permits. So  
18 that's one way in which they're a tax.

19 As we mentioned in the discussion of the  
20 Philando Castile case, people are appropriately wary when  
21 they encounter someone with a gun who's potentially in a  
22 confrontational situation with a police officer, which is  
23 always the case when the police officer is stopping a car  
24 for a violation.

25 That's a constant thought, that the police

1 consider that a potentially confrontational situation.  
2 And the more people carrying guns in that situation, the  
3 more apprehensive police will be.

4 There's actually a very interesting article by  
5 David Kopel, who's the NRA spokesperson, in which he  
6 quotes the guy who he, Kopel, says wrote the  
7 right-to-carry law for the state of Minnesota, which is  
8 where Castile was killed.

9 And he was commenting on the Castile case and  
10 talks about being stopped by the police, and this author  
11 of the Minnesota gun law said he was very frightened,  
12 because he could tell the police officer was so  
13 frightened by this encounter.

14 And the speculation is that the police officer  
15 had run his record, saw that he was a concealed carry  
16 owner and, indeed, one of the most zealous gun advocates  
17 in Minnesota, and that scared the heck out of the cop.

18 So he was acting in a much more cautious and,  
19 according to the right-to-carry permit holder, scared  
20 manner that made the permit holder scared.

21 And I don't think that's unusual. I think that  
22 police legitimately fear confrontations with people  
23 holding guns.

24 Q Now, would it change your opinion that RTC laws  
25 are a tax on law enforcement if a significant majority of

1 police officers supported right-to-carry laws?

2 A Not really.

3 Q Why not?

4 A Well, for a number of reasons. One, there's a  
5 lot of political identification with conservative causes  
6 that certain members of police departments are very  
7 sensitive to. And it may be sort consistent with your  
8 tough-guy image that, you know, you support  
9 right-to-carry laws. Maybe even you're an NRA member.

10 But that doesn't tell me anything about how  
11 they act in the field, when they're walking to that car  
12 in the middle of the night and maybe know that this guy  
13 is a right-to-carry permit holder. And that's the more  
14 relevant thing.

15 If you look at the tape when Philando Castile  
16 was killed, that police officer was polite as can be  
17 until the second he said, I am a right-to-carry holder.  
18 And then suddenly the fear was extremely evident and, you  
19 know, had he not been a right-to-carry holder and didn't  
20 have a gun, he wouldn't have been shot seven times.

21 Q So just to be clear, you're discounting -- you  
22 would discount the views of police officers who support  
23 right-to-carry laws because you think they would put  
24 ideology over public safety?

25 A You have to remember I'm an economist, which

1 means, almost by trade, I don't believe what people say  
2 in public opinion surveys.

3 My -- one of my top research assistants just  
4 wrote a book called "Everybody Lies." And I think that's  
5 a good caution when somebody cites information or survey  
6 information that is potentially ideologically loaded. As  
7 I think the issue of right-to-carry is for police.

8 Q So you don't believe the police officers who  
9 say that they support the right-to-carry?

10 A I don't believe public opinion surveys about  
11 what police officers believe.

12 Q Are you aware of any?

13 A Am I aware of any public opinion surveys?

14 Q Of police officers on this subject.

15 A I know John Lott will cite some of them.  
16 Typically, in response to claims that police chiefs  
17 overwhelming oppose right-to-carry laws.

18 MR. BRADY: Exhibit 13.

19 (Exhibit 13 was marked.)

20 BY MR. BRADY:

21 Q I will show you one.

22 Have you seen this?

23 A No.

24 Q This is a survey of, as you can see, police  
25 officers from the policeone.com between March 4th and

1 March 13, 2013, receiving 15,595 responses from verified  
2 police professionals across all ranks and department  
3 sizes.

4 Is that a good sample size for a survey?

5 MR. EISENBERG: Objection. Vague and ambiguous as  
6 to whether you're speaking in general or about this --

7 BY MR. BRADY:

8 Q Generally.

9 In your field, would you like to see a sample  
10 size of about 16,000 people who are verified in the class  
11 that you are wanting to learn information from?

12 MR. EISENBERG: Objection. Vague and ambiguous as  
13 to how many people were asked versus how many people  
14 responded.

15 THE WITNESS: Yeah, I mean, as we've talked about,  
16 number of responses can be good, but the most famous  
17 horrible survey was the prediction that Truman was going  
18 to lose based on a 2 million-person response survey. So  
19 a lot depends on, you know, how the survey is conducted  
20 and is it a representative sample.

21 MR. EISENBERG: We interpose that there's a lot of  
22 information in this report. Professor Donohue indicated  
23 that he'd never seen it before, and it's 17 pages. There  
24 are reported data in here that go to your questions, give  
25 more specificity to your questions, but you didn't use

1 those. So I just want to point that out.

2 MR. BRADY: You haven't heard my questions about  
3 this yet.

4 MR. EISENBERG: Well, I've heard some of them.

5 MR. BRADY: They were just asking generally about  
6 a sample size of 16,000 people. That was a general  
7 question, not relying on this report. But I will get  
8 specific right now.

9 Q If you turn to Page 10. Question 19. It says,  
10 "Do you support the concealed carry of firearms by  
11 civilians who have not been convicted of a felony and/or  
12 not been deemed psychologically medically incapable?"

13 The response percent of yes, without question  
14 and without further restrictions, 91.3 percent. It was  
15 12,968 officers providing that response. Only 4.1  
16 percent said no, only law enforcement officers should  
17 carry firearms. And 4.5 percent were unsure.

18 Is it your assertion that 91 percent of these  
19 responding officers were putting ideology above their  
20 views on public safety?

21 MR. EISENBERG: Objection. Argumentative.

22 THE WITNESS: I don't believe this, but if --

23 BY MR. BRADY:

24 Q I'm sorry, when you say you don't believe it,  
25 what do you not --

1 MR. EISENBERG: Let him finish his answer.

2 THE WITNESS: I don't believe that 91 percent of  
3 police would say they support the concealed carry of  
4 firearms by civilians without questioning, without  
5 further restrictions.

6 BY MR. BRADY:

7 Q So it's not that the police are lying? It's  
8 whoever put on the survey is lying?

9 MR. EISENBERG: Objection. Argumentative.

10 THE WITNESS: Yeah, I mean, nobody has to be  
11 lying, necessarily, but I don't believe that 91 percent  
12 of police in the United States would answer that question  
13 yes.

14 BY MR. BRADY:

15 Q So who's misrepresenting? The police officers  
16 responding or the survey-takers?

17 MR. EISENBERG: Objection. It lacks foundation  
18 and argumentative.

19 THE WITNESS: I mean, you know, let's say we went  
20 to the Vials Policy Center annual meeting, if they had  
21 such a thing, and we said, Are there any law enforcement  
22 there? and a hundred people raised their hands, and they  
23 said, Well, will you fill out this questionnaire?

24 I would suspect 91 percent of the people would  
25 say, I'm opposed to right-to-carry laws. Does that mean

1 I think 91 percent of police are opposed to  
2 right-to-carry laws? No. But I certainly could get 91  
3 percent of a selected sample of police to say they oppose  
4 right-to-carry laws.

5 And so I'm sure -- if this number is correct,  
6 I'm sure you have a wildly selected sample. I mean -- so  
7 if you take your survey at San Quentin and say, you know,  
8 Have you ever been convicted of a crime? A hundred  
9 percent of people say they have been. Does that mean a  
10 hundred percent of people have been convicted of crimes?  
11 No. But --

12 BY MR. BRADY:

13 Q Okay. Do you know how many concealed carry  
14 license holders there currently are in the country?  
15 Obviously, an estimate.

16 A Yeah. Roughly. I don't know precisely but  
17 roughly.

18 Q And what is that figure?

19 A I'd put it around 12 million maybe, but, you  
20 know, it's growing over time. So I mean, sometimes  
21 you're a little behind on your estimates.

22 Q So it's growing.

23 Is the crime rate -- is the national crime rate  
24 growing as well?

25 A Yes.



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1 Q The national violent crime rate is growing?

2 A Yes. Right now it is growing, yes.

3 Q Do you know of any state that has repealed a  
4 right-to-carry law in the last 20 years?

5 A No.

6 Q To what do you owe the lack of repealing  
7 right-to-carry laws, in light of the conclusions in your  
8 report?

9 A Well, remember, I was saying that violent crime  
10 goes up maybe 13 to 15 percent. That's below the  
11 threshold of perception of most Americans.

12 So for example, number of Americans who said  
13 they feared crime rose substantially, you know, in the  
14 Obama years, even though crime was going down. So what  
15 people think about crime is very unrelated to what's  
16 happening about crime unless the changes are massive. It  
17 has to be much more than 10 or 15 percent before people  
18 understand.

19 And furthermore, there -- you know,  
20 right-to-carry laws seem to be a bad thing if you're  
21 concerned about crime, but we have had many good things  
22 happen.

23 And so if the good things -- you know, you lock  
24 up a lot of people, you're adding more police to your  
25 jurisdiction, and that suppresses crime. People might



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1 not even notice the impact of right-to-carry laws. So  
2 that's one reason why they don't repeal them.

3 The other thing is it's hard to repeal anything  
4 that the NRA wants. For example, 90 percent of Americans  
5 want universal background checks, and that doesn't get  
6 adopted. So the fact that you see or don't see a law is  
7 often more about political power of special interest  
8 rather than an assessment of what's good for society.

9 Q I'd like to move on to talk about your  
10 conclusions regarding open carry.

11 A Yeah.

12 Q Let's refer to your report, Paragraph 33.

13 Okay. At the end of that paragraph it says,  
14 quote, "These facts suggest that open carry of guns would  
15 be less socially desirable than concealed carry, since  
16 the latter at least has the prospect of a deterrence,  
17 since the criminals cannot know who is carrying weapons."

18 A Yes.

19 Q Is that an accurate quote?

20 A Yes.

21 Q So you're an economist, right?

22 A Yes.

23 Q Isn't it a basic tenet of economics that if the  
24 cost of something increases, there'll be less of it?

25 A Yeah. Holding other things equal and -- yeah,

1 that's -- generally -- not always true but generally  
2 true, yeah.

3 Q Your report relied upon your own research  
4 regarding data about criminality from states that allowed  
5 concealed carry, correct?

6 A Yes.

7 Q And you did no research about open carry that's  
8 reflected in your report, right?

9 A That's correct.

10 Q And you did not collect or examine data  
11 regarding open carry in any state; did you?

12 A That's correct.

13 Q And your research -- you didn't conduct any  
14 research, examining the criminality about the open-carry  
15 permittees in California counties, correct?

16 A (No audible response)

17 Q Let me -- strike that. I'm sorry, I skipped a  
18 question.

19 You're aware that certain California counties  
20 can issue open permits, correct?

21 A I'm not aware of the thing that you mentioned.

22 Q Okay. So you didn't examine the criminality of  
23 those license holders, open-carry license holders, in  
24 preparing your report, correct?

25 A No, I did, you know, refer to Ronald Reagan's

1 support for, you know, preventing open carry in the  
2 United States -- in California when he was Governor, and  
3 his statements that there's no reason for anybody to be  
4 walking on the streets with a loaded weapon. But beyond  
5 that, I didn't focus on open carry in this paper.

6 Q Your report also relied upon research by  
7 others, where they examined concealed carry and  
8 criminality rates in other states, correct?

9 A Could you repeat that question? I'm sorry.

10 Q Sure.

11 Your report relied upon others' research, who  
12 examined concealed carry and criminality rates in other  
13 states, correct?

14 A I'm not sure if I'm understanding. Let me  
15 just --

16 Q They examined the criminal -- the crime rates  
17 in conjunction with right-to-carry laws.

18 A Yeah, I was focusing on crime rates for  
19 right-to-carry laws.

20 Q Are you aware of research by anybody else who  
21 has examined open carry and its potential effects on  
22 criminality?

23 A I don't know of any comparable studies to the  
24 sort that I was doing for right-to-carry. There is  
25 discussion about what the consequences of open carry are,

1 and so I've read that literature, but I'm not familiar  
2 with anyone that's tried to do for open carry what I've  
3 done here for right-to-carry.

4 Q That literature that you referenced, where is  
5 that -- where are you locating that?

6 A Discussions about open carry --

7 Q Correct.

8 A You know, there's a fair amount written every  
9 time a state adopts open carry. So Texas, who recently  
10 adopted open carry, there was a fair amount written about  
11 that. Police chiefs were discussing, you know, will this  
12 lead to more gun thefts, and there was even a debate  
13 among some permit holders -- because the way Texas moved  
14 to open carry was they said, if you have a concealed  
15 carry permit, then you're allowed to carry open.

16 And so I did try to follow some of the  
17 discourse among permit holders. Is it a good idea to  
18 openly carry or not. Also, there was a fair amount of  
19 public discussion and writing over taking guns into  
20 stores like, you know, Starbucks and stuff like that.

21 Q None of that literature is cited in your  
22 report; is it?

23 A No. I didn't go into that in my report.

24 Q So your report doesn't rely upon data or  
25 reports from any other research, where that researcher

1 examined open carry and its potential effects on  
2 criminality?

3 A Well, I -- I made a number of points in my  
4 report that are reflective of the literature that I was  
5 just alluding to, but I don't know of any study that, you  
6 know, tried to statistically estimate the impact on crime  
7 of adopting open carry.

8 Q Please turn to Paragraph 34 of your report.

9 A Yeah.

10 Q There you state, "Open carry might conceivably  
11 confer a benefit if it could dissuade potential criminals  
12 from targeting certain individuals if they or someone  
13 nearby has a weapon, but in general, the greatest effect  
14 of open carry would likely only be to move crime away  
15 from the armed target to an unarmed target. In general,  
16 spending resources that shift burdens of crime to one  
17 group to another without reducing the overall burden is a  
18 net waste of resources."

19 Is that a correct -- close quote.

20 Is that a correct reading of your quote, your  
21 Paragraph 34 in your report?

22 A Yes.

23 Q When you talk about burdens of crime there, to  
24 what specific burdens were you referring?

25 A Well, part of this is that it is a sort of

1 standard view in public economics that we don't want to  
2 expend resources in a way that just moves around cost  
3 among the population where we're trying to engage in  
4 expenditures that reduce total social costs.

5 And so, for example, there's a discussion about  
6 using a Club in a vehicle to stop your car being stolen.  
7 And many economists have written it's not a socially  
8 beneficial thing, because you put The Club on, and that  
9 just means your car doesn't get stolen, but the car next  
10 to you gets stolen.

11 And, you know, there are more complicated  
12 assessments that you could engage in, but the bottom  
13 point is the same, that concealed carry has a better  
14 possibility of being socially beneficial than open carry,  
15 because if there is deterrence from people carrying  
16 around guns, you get more of it if they don't know who  
17 has the gun than if they do know who has the gun, because  
18 then they just go to the other target.

19 Q But you have no data to support that  
20 conclusion, correct?

21 A I mean, that has been written about in many  
22 crime prevention contexts, but I'm not aware of any that  
23 have, you know, tested for this phenomenon, as opposed to  
24 just referring to it in the literature.

25 Q It's not written about in your report; is it?

1           A You know, I just made the point myself, and I  
2 didn't cite anybody in support of that point.

3           Q So I think I understood you to say that the  
4 burden is -- a monetary one? Is that -- or the burden  
5 on --

6           A Well, yeah, just to -- just to complete the  
7 point of Paragraph 34, you know, as someone who is most  
8 interested in reducing the burdens of crime, the one  
9 thing we know is that if we took the 5 billion or so that  
10 people spend on guns and ammunition in the United States  
11 and put that into an actual effective crime-reducing  
12 measure, we'd really get some pop.

13           For \$5 billion you can reduce crime if you put  
14 it into, you know, well-directed crime-reducing  
15 technologies. So we know, almost as a matter of economic  
16 certainty, that spending that 5 billion on guns in  
17 private hands is giving less benefit than you would get,  
18 in terms of other methods of allocation.

19           Now, why do I say I know that with certainty?  
20 Because so much of what we've talked about today is --  
21 even the supporters of right-to-carry just say, Well,  
22 doesn't really have any effect overall net on crime, and  
23 we know that 5 billion on, let's say, well-trained police  
24 will get you a big pop in reducing crime.

25           So that means that if we knew nothing else,



1 we'd know we're in a suboptimal world by having that  
2 money spent on private weapons, when putting it into the  
3 best crime-reducing expenditure will really get us some  
4 social benefit.

5 Q The monetary burden of the private weapon is  
6 borne by the individual carrying the weapon, correct?

7 A Yeah. So they are wasting their own money.

8 Q So they're wasting their own money.

9 But that -- how is that a burden on the greater  
10 good? That money wouldn't be going to fund a police  
11 force anyway, would it, because it's their private money,  
12 not government money?

13 A Right, but if I could -- if I could find a  
14 group that could somehow, you know, convince every  
15 private gun owner who's thinking about buying a gun in  
16 the next year to say what I really care about is how can  
17 I reduce crime in the United States, and then I would  
18 take that money and use it to hire well-trained police, I  
19 know I'd get a lot more crime reduction from the 5  
20 billion in the well-trained police than 5 billion spent  
21 on private weapons.

22 So remember, the economist is always thinking  
23 how can we reallocate resources for greater social good?  
24 And so this would be one area where we could allocate  
25 resources. It's hard to achieve that allocation, but

1 that is the job of the economist, who tries to help move  
2 in that direction.

3 Q Just to be clear, you didn't rely upon any data  
4 to measure the resource burdens that open carry imposes?  
5 These are just your inferences; is that correct?

6 A Yeah, I am trying to make some theoretical  
7 observations on what some of the likely consequences of  
8 open carry are vis-a-vis concealed carry.

9 Q But you're making those assessments without  
10 relying on any data, correct?

11 A Well --

12 Q Let me be clear. Data specific to open carry.

13 A Yes. I mean, I am trying to draw inferences  
14 from what we know about concealed carry and see how we  
15 would expect the world to operate differently with open  
16 carry than it does with concealed carry.

17 Q So you're inferring everything that you state  
18 about open carry from your work on concealed carry study;  
19 is that correct?

20 A Yeah, although, again, in light of the  
21 conversations we've talked about -- you know, for  
22 example, there's a literature right now about police  
23 officers saying that open carry facilitates gun theft  
24 even beyond concealed carry, because the criminals just  
25 watch people, and if they see them get out of their car

1 with an empty holster, they know they've left their gun  
2 in the car, and then they just steal the gun as soon as  
3 the guy leaves the premises.

4 So some police chiefs are saying the open carry  
5 has exacerbated the problem of gun thefts. With  
6 concealed carry you don't have that mechanism operating.  
7 So every day I'm thinking about, in the light of the  
8 current debate among police officials and criminologists,  
9 as to what the impacts are.

10 Q So just to be clear, your conclusion that open  
11 carry would cause a net waste of resources is not based  
12 on a report, is not based on a study, is not based on  
13 data; is that correct?

14 A Well --

15 Q Specific to open carry.

16 A Yeah, I mean, it's based on my review of the  
17 relevant literature and my expertise in this area.

18 Q None of which is cited in your report?

19 A Well, of course, I think I've cited a number of  
20 things, and then I've added further references in our  
21 discussion here.

22 Q Nothing specific to open carry, correct?

23 A Well, again, I think the literature about the  
24 impact of open carry on theft is relevant.

25 Q Is it included in your report?

1 A I didn't cite that. I could have cited it, but  
2 I mentioned it here today.

3 Q Let's talk about deterrence.

4 Do you have any opinions as to whether police  
5 officers carrying firearms openly has a deterrent effect?

6 MR. EISENBERG: Objection. Outside the scope of  
7 the expert's testimony.

8 But you can answer.

9 THE WITNESS: Yeah. Yeah, I think -- I think  
10 police are probably the single most important public  
11 investment influence on crime.

12 BY MR. BRADY:

13 Q Is there any data you rely upon in forming  
14 those opinions?

15 A Yes.

16 Q Any reports that you rely on?

17 A Yeah, just empirical studies trying to evaluate  
18 the impact of police on crime.

19 I mentioned the Steve Levitt paper using  
20 instrumental variable of the mayoral election year to  
21 show very large decreases in crime in the mayoral  
22 election years, but there are many other papers as well.

23 Q So you conclude in Paragraph 33 that open carry  
24 does not have the same deterrent effect as concealed  
25 carry, because under an open carry scheme, criminals know

1 who's armed and who isn't.

2 Is this a correct characterization?

3 A Yes.

4 Q Based on this conclusion, do you also believe  
5 that officers openly carrying does not have a deterrent  
6 effect on crime by -- shouldn't they be concealed  
7 carrying instead?

8 A You know, there is debate about, you know,  
9 unmarked cars versus visible cars in police literature.  
10 In general, the big difference is that an armed police  
11 officer is sort of a visible representation of someone  
12 who's going to try to stop crime.

13 If you just see a guy walking down the street  
14 with a gun and you're about to rob somebody, you just  
15 say, Oh, I'll wait for the next guy if you're in an  
16 open-carry regime. While in a concealed-carry regime, at  
17 least you have the potential benefit of the person  
18 saying, you know, I have to be careful here, because  
19 somebody might do me harm.

20 Q Okay. So turning to Paragraph 34, if I  
21 understand your conclusion, it's that a possible effect  
22 of open carry is that a criminal will see the person  
23 openly carrying a firearm and then choose another target,  
24 right? In other words, move the burden to somebody else,  
25 correct?

1 A Yeah. Yeah.

2 Q What data are you aware of that shows that  
3 criminals, when confronted with a potential victim openly  
4 carrying a firearm, generally choose another target?

5 A I mean, this is -- this is a little bit of the  
6 premise of, you know, gun carrying, that you're going to  
7 dissuade criminals if they see the gun. And so I was  
8 just saying, if that's the consequence, it's probably  
9 just going to dissuade them from going after you but not  
10 dissuade them from --

11 Q So you're saying even assume --

12 MR. EISENBERG: Let him finish.

13 MR. BRADY: He was finished.

14 Q So you're saying, even assuming the deterrence  
15 effect, that gun owners purport that, even if that were  
16 the case, it wouldn't matter, because it's just shifting  
17 the burden? Is that essentially what you're saying?

18 A Yeah, I was trying to make a relative  
19 comparison. And it's sort of a two-step argument. One,  
20 if you believe the conclusions of my study, then you  
21 would say we know right-to-carry laws increase crime.  
22 Then you say, well, maybe we could have open carry  
23 instead of right-to-carry.

24 Then I would say, but there's probably more  
25 benefits for concealed carry, even though they're

1     outweighed by the costs. So that would mean that open  
2     carry would be less beneficial socially than concealed  
3     carry. And we've already concluded from the initial  
4     premise that concealed carry is bad.

5             So if concealed carry is bad, in terms of an  
6     increase in crime, and yet concealed carry is better than  
7     open carry, then we know open carry is the worst of the  
8     three possible worlds, no carry, concealed carry, or open  
9     carry. So that's just sort of a logical syllogism.

10            Q    So you're basing that on logic, not on studies?

11            A    Yeah, and, you know, the premise of the entire  
12     argument is based on a study. Because --

13            Q    But there's no study specific to open carry  
14     saying what you're saying; is that correct?

15            A    Well, there's a lot of studies that discusses  
16     this issue of the deterrence of open carry versus  
17     concealed carry, and they all make the same point that I  
18     make here --

19            Q    But none of them are mentioned in your report?

20            MR. EISENBERG: Please, you're cutting him off in  
21     mid sentence. You've been doing it several times.  
22     Please let him finish talking before you ask the next  
23     question.

24            MR. BRADY: But we're running short on time, and  
25     with all due respect to the professor, as much as I'm

1 enjoying this, he's giving some long-winded -- so I'm  
2 trying to find appropriate points to interject where I  
3 believe he's finished with the answer.

4 Q You are more than welcome, sir, to say, Pardon  
5 me, Counsel, may I complete my thought? And I'm happy to  
6 allow you to. I thought I made that clear at the  
7 beginning.

8 So I apologize if I've stepped on you, but you  
9 are -- I'm no one to be afraid of, I can assure you.  
10 Anna might differ on that, but --

11 THE REPORTER: Is it a good point to take a break?

12 MR. BRADY: Sure, if -- we can do it briefly,  
13 sure.

14 (Brief recess taken.)

15 BY MR. BRADY:

16 Q So I guess we will start with your premise that  
17 if a criminal, when confronted with a potential victim  
18 who's openly carrying a firearm, chooses another  
19 target --

20 A Yes.

21 Q -- doesn't that mean that the crime against the  
22 person openly carrying was deterred?

23 A Yeah, deterred as to that individual, yes.

24 Q Would it be fair to say that you believe it is  
25 possible that open carry deters crime against those who



1 are openly carrying them?

2 A You know, it probably is true on balance.  
3 Again, just something I read this week was a police chief  
4 talking about people carrying guns so casually that he  
5 felt that, because they had a gun hanging out of their  
6 pocket rather than in a holster, that it was more likely  
7 that the criminal would steal their gun right out of  
8 their pocket than that they would actually do something  
9 good with it. So there are always complex mechanisms at  
10 stake.

11 And then, of course, we have other cases where  
12 people actually seek you out because they want to get  
13 your gun. I mentioned in the report the Boston bombers  
14 wanted to get another gun, so they killed a police  
15 officer to get his gun. So it's a case where it was an  
16 inducement.

17 And this is true in general, that there are  
18 always multiple effects. So that all you really can  
19 opine upon is, well, what's -- what, on balance, is  
20 greater, the good effects or the bad effects. And, you  
21 know, for my major study on right-to-carry, I was just  
22 concluding that the bad effects seem to outweigh the good  
23 effects.

24 Q And you're making the argument -- you're posing  
25 an argument that could counter that, you know, open carry

1     deters crime against those who are openly carrying, but  
2     your argument is based on supposition, correct?

3             A   Well, I think I've identified the correct array  
4     of issues, and then I'm drawing my inferences about, you  
5     know, how I think those would play out in practice.

6             Q   But I guess what I'm getting at is -- I'm  
7     talking specifically about open carry.

8             A   Yeah.

9             Q   There's no data or report or study that says --  
10    that you've pointed to that suggests that those who open  
11    carry becomes targets; is that correct?

12            A   Yeah, I mean, I mentioned this police officer  
13    just within the last week comment -- or police chief  
14    commenting that he was concerned about people carrying  
15    guns in a very unguarded way. The specific quote was, I  
16    don't think these guys realize how quickly this can turn  
17    around on you when you carry a gun in your back pocket.  
18    And so it could be seized by someone.

19            Q   So you have anecdotes?

20            A   Well, I have statement from police officers  
21    discussing their experience.

22            Q   None of which are included in your report,  
23    correct?

24            A   I don't know if I didn't include any of them,  
25    but this one that I was just alluding to was not

1 included.

2 Q Particularly about open carry -- I guess now is  
3 a good time to ask you -- is there anything in your  
4 report specific to open carry outside of Paragraphs 32  
5 through 36?

6 A I don't think so.

7 Q So just to be clear, there is the possibility  
8 that open carry deters crime against those who are openly  
9 carrying?

10 MR. EISENBERG: Objection. Asked and answered.

11 But you may answer, yeah.

12 THE WITNESS: Okay. The -- it's just -- if the  
13 question is do you think that open carry is likely to  
14 dissuade some criminals from picking on the open carrier,  
15 I think the answer to that is yes.

16 BY MR. BRADY:

17 Q Did you conduct any study of the benefits or  
18 burdens of that deterrence in preparing your report?

19 A I mean, in a sense the report on concealed  
20 carry is answering that to a degree, because the  
21 mechanisms that operate for open carry are similar in  
22 many respects to what's happening with concealed carry.  
23 And you may have a bigger problem with gun thefts with  
24 open carry than with concealed carry.

25 You certainly have a bigger problem of, you

1 know, citizen complaints to 911. The clinic at Stanford  
2 actually has a case going up to the Supreme Court now  
3 where someone said, Oh, there's a man with a gun outside.  
4 And this was in an open carry jurisdiction, and the  
5 police came and searched him, and the question is, you  
6 know, is that a lawful search.

7 So you are clearly taking up police time, and  
8 if these are good guys, that means you're wasting police  
9 time, and that, again, becomes a tax on police. Anything  
10 that keeps police from doing their effective work in  
11 reducing crime inhibits the -- that role. And this is  
12 another area where that would operate.

13 Q Again, you said that -- correct me if I'm  
14 wrong, but you said there's no study about police  
15 responding to lawful open carriers; is that correct?

16 Or let me ask you this. Are you aware of any  
17 study about police response to open carriers?

18 A I am aware of articles about police chief  
19 concerns about open carry with respect to more theft and  
20 with respect to this issue of the gun being carried in a  
21 reckless way that could create opportunities for someone  
22 to seize it from them quickly, as well as this issue  
23 about alarm distraction from the police and this one case  
24 where guy was walking down the street with an assault  
25 weapon.

1           It was legal to do that. And people called  
2   911. The police said, Well, there's nothing we can do.  
3   It's open carry. And then he started killing people.  
4   And so that was problem one.

5           Problem two is the guy really is a good guy  
6   with a gun, and people are calling 911, and they are then  
7   taking up time sending police over to check out a  
8   situation. So either way you going to be creating  
9   problems once you have open carry.

10          Of course, in the Dallas shooting case, the  
11   police chief there said it made it much more complicated  
12   for us, because there were open carriers around, when  
13   suddenly people are firing at us, and we didn't know who  
14   the good guys and the bad guys were, and according to the  
15   Dallas police chief, we were fortunate that, you know,  
16   none of these guys who were carrying guns got shot.

17          But again, these are all things that burden  
18   police departments in the operation of their dealings,  
19   and therefore, you know, will have a tendency to elevate  
20   crime overall, because the more you get in the way of  
21   police doing their job, the less deterrence and crime  
22   prevention you get from the police themselves.

23           Q What study or data set are you relying on in  
24   saying the burden is outweighed by the benefit of open  
25   carrying?

1           A   Again, because -- I am drawing a logical  
2   inference that if the evidence persuades you -- which it  
3   does for me -- that right-to-carry laws increase violent  
4   crime, I think there are strong reasons supported by  
5   police chief discussions that open carry would have yet  
6   more burdens and less benefits.

7           So that's the sort of logical chance I relied  
8   on my study for the premise, and then I rely on the  
9   literature that discussing the likely consequence of open  
10   carry to say, I interpret that evidence to say that open  
11   carry would be less socially beneficial than concealed  
12   carry, and I've already drawn the conclusion that the  
13   concealed carry is socially harmful.

14          Q   So you admit there's a distinction between open  
15   and concealed carry?

16          A   Yes.

17          Q   Okay. And the right-to-carry laws that you are  
18   evaluating in your reports and studies are solely  
19   concealed-carry laws; is that correct?

20          A   That's correct.

21          Q   Okay. So is it not problematic to utilize  
22   reports and data on concealed carry, that you admit is  
23   different from open carry, to make conclusions about the  
24   effects of open carry?

25          MR. EISENBERG:   Objection. Vague and ambiguous as

1 to -- the word is "problematic." Vague and ambiguous as  
2 to "problematic."

3 But you may answer.

4 THE WITNESS: You know, I think, given the factual  
5 and empirical predicate of my argument, I feel on solid  
6 grounds drawing logical inferences about the impact of  
7 open carry relative to the impact of concealed carry.

8 And since I think open carry would likely be  
9 more socially harmful, given the factors that we've  
10 discussed, it's -- it sort of follows that open carry  
11 would, on balance, be socially harmful if we've already  
12 accepted the premise that concealed carry is socially  
13 harmful.

14 BY MR. BRADY:

15 Q So what if -- you conclude that a criminal  
16 would shift focus to an unarmed target if somebody's  
17 openly carrying, right?

18 A (No audible response)

19 Q So -- but what if the prevalence of open carry  
20 was so great that there's a significant chance that the  
21 next victim would be openly carrying as well?

22 A Yeah.

23 Q Did you form any opinions about the benefits  
24 and burdens of open carry under circumstances where open  
25 carry's ubiquitous?

1           A Yeah. You know, the plausible level of  
2 carrying is not going to be so high that a criminal  
3 hanging out isn't going to be able to find anyone to go  
4 after.

5           And again, you would think that if criminals  
6 are being dissuaded by the prospect of running into an  
7 armed person, they'd be more dissuaded by concealed  
8 carry, because then they don't even have the benefit of  
9 surprise.

10           And so when I spoke to one of my colleagues who  
11 went into a gun store the day that Texas opened up their  
12 permit holders to be able to carry openly, many of the  
13 people were saying that, I'm not going to carry openly,  
14 because I'd be the first person the criminal would take  
15 out, and this way I'll keep my gun concealed, and when  
16 they take out somebody else, I'll be the one to take them  
17 out.

18           So at least the Texas concealed carriers were  
19 expressing the view that they thought open carry was less  
20 effective in dealing with crime than concealed carry.

21           Q So hypothetically, using your view of the next  
22 unarmed victim being a target, what if the net effect --  
23 what would, in your opinion, be the net effect of half of  
24 the next potential victims openly carrying be? In other  
25 words, half the population --



1 A Yeah.

2 Q -- is openly carrying. Now, granted this is a  
3 hypothetical.

4 Would that change the view of the  
5 benefits-versus-burden analysis?

6 MR. EISENBERG: Objection. Compound.

7 THE WITNESS: You know, I think it's unlikely  
8 you'd ever see 50 percent people carrying. I mean, we  
9 live in California. 63 percent of people just voted to  
10 tighten gun access considerably in the latest referendum.  
11 So I don't see this playing a role.

12 And in the areas where you do see lots of guns  
13 openly carried, it's certainly not as though you see  
14 major drops in crime. The major drops in crime over the  
15 last 30 years have come in places like New York, which  
16 has been the most aggressive of any jurisdiction in  
17 trying to eliminate the role of guns, and, of course, in  
18 Australia, which largely got rid of private guns and  
19 prohibited self defense as a basis for applying for a gun  
20 permit.

21 BY MR. BRADY:

22 Q So just to be clear, I was asking  
23 hypothetically. I concede that nowhere would 50 percent  
24 of the people -- I'm just -- I want to pose a  
25 hypothetical to suggest -- is there a point at which the

1 level of open carrying would provide a deterrent effect,  
2 such that there would be a benefit?

3 A I mean, it's hard for me to envision that  
4 world, but I suspect that if you ever got to that place,  
5 the number of accidental gun deaths would be so high that  
6 there'd be a tremendous backlash with this. People'd be  
7 leaving their guns all over the place.

8 You know, a gun is a nuisance. It's heavy.  
9 People don't like to carry heavy things on their person  
10 the whole day, which is why they tend to put them down  
11 and leave them places.

12 And so if you look at the number of phones that  
13 get lost, it probably is a fairly good approximation of  
14 the number of guns that would get lost, and so 50 percent  
15 of Americans would -- carrying guns, you'd have a lot of  
16 guns ending up in the hands of kids on playgrounds and  
17 subways and buses. That would be a bad thing.

18 Q Are you aware of any studies that show that  
19 people who open carry have accidents with their firearms?

20 A You know, there's certainly a lot of evidence  
21 that people who carry guns have accidents with their  
22 firearms. So whether you're openly carrying or concealed  
23 carrying, it's probably, you know, equally likely that an  
24 accident will occur.

25 Maybe higher with open carry, because you have

1 the potential of other people being involved in the  
2 accident, as opposed to concealed carry where -- except  
3 the case of the Idaho mom whose two-year-old shot her in  
4 the head because he was in the shopping cart and found  
5 the gun.

6 Most of the time when you have concealed carry,  
7 you're not going to be exposing a gun in that way. But  
8 open carry, at least a little more exposed.

9 Q Let's turn to Paragraph 36 really quick in your  
10 report.

11 Quote, "An openly displayed gun in public also  
12 gives a muddy signal about the gun toter and could draw  
13 undue attention from police officers, directing law  
14 enforcement resources inefficiently, which, again, makes  
15 law firm less effective, thereby further promoting  
16 crime," close quote.

17 Is that an accurate reading of your report?

18 A Yes.

19 Q Do you consider police officers giving undue  
20 attention to open carriers a burden of open carry?

21 A That's a concern. We were discussing this  
22 earlier. Police chiefs have said, you know, if you have  
23 a choice between carrying openly and carrying concealed,  
24 carry concealed, because we've got a lot of 911 calls  
25 about open carriers. Obviously, that's tying up police

1 resources.

2 And this case going up to the Supreme Court  
3 that the Stanford clinic is handling is exactly that  
4 sort. Guy just carrying a gun openly where open carry is  
5 allowed suddenly triggers police intervention, and the  
6 NRA is coming in on that case on the side of the Stanford  
7 clinic, saying that that intervention was inappropriate,  
8 but it happens, and it's costly.

9 Q But again, that's an anecdote.

10 You don't have any data about stops by police  
11 officers of those openly carrying to support your  
12 Paragraph 36; is that correct?

13 A Again, I don't have numbers on stops, but we do  
14 have the discussions of police chiefs talking about the  
15 amount of attention that gun carriers can encourage from  
16 the public and the issues -- I was speaking earlier about  
17 the Dallas police chief talking about the consequences of  
18 open carry when the shooting in Dallas was going on, and  
19 he considered it problematic that there were people on  
20 the street with guns, because when people are shooting at  
21 the police and you look around and you see a lot of  
22 people with guns, you don't know if they're the good guys  
23 or the bad guys.

24 So any of these things can complicate the  
25 attention and the effectiveness of police, and since I

1 believe police are an extremely important element of  
2 crime reduction, I don't want to make their job harder.  
3 I want to make it easier.

4 Q So is it fair to say that the conclusion in  
5 Paragraph 36 that police officers would be burdened by  
6 open carriers is a major point of your report --

7 MR. EISENBERG: Objection. Vague -- oh, pardon  
8 me.

9 BY MR. BRADY:

10 Q -- opposing open carry?

11 MR. EISENBERG: Objection. Vague and ambiguous as  
12 to "major point."

13 THE WITNESS: I mean, the major point is really  
14 that concealed carry seems to be socially harmful, and  
15 here are a number of reasons why I think open carry is  
16 likely to be worse than concealed carry.

17 BY MR. BRADY:

18 Q But this is one of your main reasons for why  
19 open carry is a burden, correct, that it burdens police  
20 officers? That's one of your main points?

21 MR. EISENBERG: Objection. Misstates prior  
22 testimony and same objection about the vagueness and  
23 ambiguity of "major point."

24 THE WITNESS: And it is one of the factors and,  
25 you know, thefts -- I think I've discussed how that could

1 be encouraged.

2 Police chiefs talk about seeing the open  
3 holster by the guy getting out of the car as the sure  
4 sign they've left their gun in the car, and there's been  
5 a lot of theft in areas where people have shifted over to  
6 open carry, engineered through that dynamic of the  
7 criminals noticing the open holster. So there are a  
8 number of factors.

9 And the main thing is that I do think, if there  
10 are benefits from deterrence for concealed carry, that  
11 you'd see less of those overall for open carry.

12 BY MR. BRADY:

13 Q Okay. I guess let me phrase it this way.

14 If there was a report saying that police stops  
15 by officers of open carriers was not a problem at all,  
16 would that impact your conclusion in your report about  
17 the effects of open carry?

18 A Yeah. I mean, that's a fair point. You know,  
19 if you're talking about North Dakota, could very well be  
20 the case you're not getting any calls to the police.

21 But we're contemplating open carry in a state  
22 like California, which means we're going to have open  
23 carry on the streets of Los Angeles and San Francisco,  
24 and I'd be amazed if the results of that were not along  
25 the lines that I suggest here. And the nature of a busy

1 urban environment is much less conducive with the  
2 carrying of guns without causing concern or alarm than in  
3 a more rural area.

4 So if a person came to me and said, Look, we  
5 don't have any problem out here in this town 90 minutes  
6 outside of Fargo, I'd say, well, that's not very helpful.  
7 Do you have any problems in, you know, New York City?  
8 And I think that you would have problems in New York  
9 City.

10 Q The reason I asked as a hypothetical -- let me  
11 strike that.

12 What I'm trying to get you to answer -- I think  
13 could be a yes-or-no question, but I'll leave that up to  
14 you -- is whether the factor of the burden on police  
15 officers by open carriers is an important component of  
16 your conclusion about the effects of open carry on the  
17 public.

18 MR. EISENBERG: Objection. Vague and ambiguous as  
19 to "important."

20 THE WITNESS: You know, I think it's one of the  
21 factors that leads me to think that open carry is  
22 probably worse than concealed carry.

23 BY MR. BRADY:

24 Q How many factors are there?

25 A You know, just everything that we've been

1 talking about. The potential for greater theft, the lack  
2 of deterrent umbrella, the potential impairment of police  
3 effectiveness.

4 Q Okay. I refer you to Page 17 of your report.

5 A Yes.

6 Q Open carry versus concealed carry.

7 A Yeah.

8 Q You have Paragraph 32, 33, 34, 35, 36.

9 That's one, two, three, four, five paragraphs,  
10 correct?

11 A Yes.

12 Q And all contained on one -- not even a full  
13 page, correct?

14 A Yes.

15 Q Okay. One paragraph almost -- one of the five  
16 paragraphs is dedicated to the idea that burdens on  
17 police officers by open carriers is a negative effect on  
18 the public.

19 Is that a fair assessment of your report?

20 A Yeah, it is one of the factors I mention.

21 Q So then is it fair to say that that concept is  
22 a significant part of the one-page analysis on open carry  
23 in your report?

24 MR. EISENBERG: Again, objection on "significant."

25 THE WITNESS: I mean, it's -- I think there's sort



1 of independent grounds in addition to that to be  
2 skeptical about open carry, and this is -- becomes a  
3 cumulative basis for being skeptical about open carry.

4 BY MR. BRADY:

5 Q Additional ones that are not in your report?

6 A We've been discussing, you know, the  
7 encouragement of theft and the easier ability for  
8 criminals to identify theft opportunities, the lack of  
9 the deterrent umbrella that open carry creates. So those  
10 are two very important factors as well.

11 Q And those are all in your report?

12 A I believe they're in my report.

13 Q Those notions themselves are not based on any  
14 report specific about open carry, correct?

15 A Well, I mean, I had not -- I had not realized  
16 that thieves were sort of targeting people with empty  
17 holsters when they got out of their car. So that was  
18 based on a police chief reporting that information.

19 So reviewing those sorts of studies led me to  
20 that particular concern. And in general, there's a lot  
21 of evidence that people who carry guns outside the home  
22 have those stolen more frequently.

23 So that's no -- that's no different between  
24 open and concealed, but the police chief discussion of  
25 the greater opportunity of open carry to identify theft

1 opportunities was an additional factor.

2 And then, you know, the big argument that has  
3 always been made for concealed carry is that it provides  
4 a deterrent umbrella. By carrying, I not only protect  
5 myself, but I protect you, because the criminal doesn't  
6 know which of us is carrying, and that gets taken away  
7 when you have open carry, because now they do know.

8 Q You mentioned the anecdote about the police  
9 chief concerns about open carry several times now,  
10 correct?

11 A Yeah.

12 Q So you found that anecdote compelling, correct?

13 A It wasn't an anecdote. It was his discussion  
14 of the problem of theft in the wake of open carry.

15 Q You found his articulation of that problem with  
16 open carry that he viewed to be compelling, correct?

17 A Yes.

18 Q Okay. Then why didn't you develop any reports  
19 about stops by police officers on those who are openly  
20 carrying?

21 MR. EISENBERG: Objection. Argumentative.

22 THE WITNESS: You know, I probably should have  
23 added that to the report, but -- thankfully, we have this  
24 deposition to fill -- flesh out the record.

25 BY MR. BRADY:

1 Q Well -- so you should have, meaning that if you  
2 did and it came -- the conclusion or the findings of that  
3 study were that there really is not a problem with police  
4 officers stopping people because they're openly carrying,  
5 would that change your conclusions in your report about  
6 openly carrying -- about the effects of open carrying?

7 A I mean, if somebody had convincing evidence  
8 that in an urban environment you don't have to worry  
9 about the factors that I articulated, then, sure, I would  
10 take that into account.

11 Q But just to be clear, you didn't review any  
12 polls of law enforcement officers about the burdens they  
13 perceive in encountering open carriers in preparing your  
14 report?

15 A No, I didn't review polls.

16 Q Did you seek any data from any law enforcement  
17 agencies about their experiences with open carriers?

18 A You know, I've alluded to the published record  
19 on this, which I did seek out, but I didn't directly  
20 inquire with particular police departments.

21 Q Are you aware of any public statements by chief  
22 law enforcement officers, police chiefs or sheriffs,  
23 indicating they need more funding to deal with people who  
24 are openly carrying?

25 A You know, I haven't seen that, although there's

1 certainly discussion about the need for more funding than  
2 just concealed carrying. And -- but I am not aware of  
3 the literature on asking for more funding in the wake of  
4 open carry.

5 Q So you have -- so do you have any knowledge  
6 about the net burden of open carry policies on law  
7 enforcement from a law enforcement source?

8 A You know, apart from the published discussions  
9 that I've been referring to, I don't have anything else.

10 Q And those public discussions are not referred  
11 to in your report, correct?

12 A Yeah, I don't think I added those.

13 Q So then, essentially, you've drawn your  
14 conclusions about open carry -- about the net effect of  
15 open carry based on your conclusions that you've reached  
16 about concealed carry; is that correct?

17 A Well, certainly, the conclusions about  
18 concealed carry were a critical premise to this  
19 articulation of the relative benefits and burdens, but  
20 the rest follows from my reading of the literature on  
21 experience with open carry and then, you know, sort of  
22 the basic principles of deterrence theory and the  
23 information about gun theft, and at least occasion of  
24 resources.

25 Q Okay. Did you analyze at all whether people

1 who open carry are more or less law-abiding than those  
2 who carry concealed?

3 A I'm not aware of any information on that.

4 Q So could open carriers be more law-abiding than  
5 concealed carry permit holders?

6 A It's possible. I would be surprised by that,  
7 but it's possible.

8 Q If they were, would that change your opinion  
9 that effects of open carry can be inferred from concealed  
10 carry data?

11 A If open carry people were --

12 Q More law-abiding.

13 A More law-abiding.

14 I mean, it -- if they are more law-abiding,  
15 then one of the mechanisms that leads to concealed carry  
16 being problematic would be eliminated, but the other  
17 mechanisms would not.

18 I'm just dubious about the premise of the  
19 question, because I suspect, if anything, the open  
20 carriers would be much less law-abiding than the  
21 concealed carries.

22 Q Your suspicion is based on pure speculation,  
23 correct?

24 A "Speculation" is a loaded word. It's based on  
25 years of working in the criminal justice research arena.

1 Q Well, let me define it a little more clearly.

2 Are there any reports that you have seen to  
3 suggest that open carriers are less law-abiding than  
4 concealed carriers?

5 A No. I haven't seen anything opining on that  
6 relative difference.

7 Q So you can't know whether open carriers are  
8 more or less law-abiding than concealed carriers; is that  
9 correct?

10 MR. EISENBERG: Objection. Vague and ambiguous as  
11 to "you can't know."

12 THE WITNESS: I don't --

13 BY MR. BRADY:

14 Q You don't know, right?

15 A I don't know. No, I'm just inferring.

16 Q If you don't know that, how can you determine  
17 that open carry would increase violent crime?

18 A Well, I -- since I don't have any reason to  
19 think that open carriers would be more law-abiding than  
20 concealed carriers, and I've concluded that concealed  
21 carry promotes violent crime, I would have no reason to  
22 think open carry would be better.

23 And as I said, since I actually suspect that  
24 it's the opposite, that will only reaffirm that  
25 conclusion. Plus we have these other factors that we

1 talked about that make open carry worse than concealed  
2 carry.

3 So for me it becomes sort of a fortiori that  
4 open carry would be bad rather than, you know, a tricky  
5 cost-benefit calculus.

6 Q If it were shown that there were a deterrence  
7 effect from open carry, would that alter your opinion on  
8 its impacts on public safety?

9 A I mean, again, it's a little imprecise, in  
10 that -- let's say that a study was done and said, you  
11 know, a random person walking down the street had a, you  
12 know, one-in-a-hundred-thousand chance of being robbed,  
13 and the guy walking down the street with a concealed  
14 carry -- with an openly carried gun had an even lower  
15 rate.

16 I mean, maybe if we did it better, we did a  
17 randomized study that said we're going to let half you  
18 guys carry and the other half can't, and we're going to  
19 randomize you into two groups. And it turns out that the  
20 people who were randomized into the group that said you  
21 can carry openly were attacked less than the other group.

22 That would be, again, consistent with what I  
23 said earlier, that I think it could dissuade people from  
24 going after the actual carrier, but it still wouldn't  
25 answer the question of whether this is a good law or not,

1 because it'd actually make -- have no overall deterrent  
2 effect but just alter the target from "A" to "B," and if  
3 that's the case, it wouldn't have any benefit.

4 And so, for example -- you see this same  
5 discussion in labor literature. If you find that there's  
6 some people that are having trouble getting a job, you  
7 could give them a voucher that helps them get a job. If  
8 the voucher says, you know, if the employer hires this  
9 person, they'll get a \$10,000 payment from the State of  
10 Indiana.

11 And the question is does that help this guy get  
12 a job? Sure it does, but if it doesn't reduce overall  
13 employment, then you've just shifted who's unemployed  
14 rather than diminished unemployment. And we really want  
15 to diminish unemployment. We don't want to just shift  
16 who's unemployed.

17 And that's my concern in this area. You could  
18 get some dissuading from the carrier to another person,  
19 but then that becomes a wash and, in fact, burdens, then,  
20 the people who aren't carrying, which is certainly not an  
21 appealing feature of open carry if that's all it does.

22 Q I want to finish up this section with a  
23 question, and then I just have a few closing personal  
24 questions and admonitions, and then we will wrap it up.

25 So from what you've provided in your report on



1 open carry, you cannot state to a reasonable degree of  
2 scientific certainty that open carry increases violent  
3 crime; can you?

4 MR. EISENBERG: Vague and ambiguous as to  
5 "reasonable degree of scientific certainty."

6 THE WITNESS: The premise of the question is you  
7 have a reasonable degree of scientific certainty that  
8 concealed carry promotes violent crime. Can you then  
9 include within that conclusion that open carry will  
10 increase violent crime.

11 BY MR. BRADY:

12 Q I guess my question is would it be  
13 scientifically sound -- or I guess I'm including  
14 economics in the word "scientifically."

15 Is it scientifically sound to say -- to make a  
16 conclusion and say that you have a reasonable degree of  
17 scientific certainty about that conclusion when it is not  
18 based on any report, study, or data that specifically  
19 addresses that issue?

20 MR. EISENBERG: Objection. Argumentative, lacks  
21 foundation, compound, vague and ambiguous.

22 THE WITNESS: I mean, this goes back to the  
23 earlier discussion. You said do you agree that if you  
24 raise the price of something, you'll get less of it. I  
25 said, yeah, ordinarily that's a sound assumption. It's

1 not always true.

2 I think the same is true here, that we have as  
3 much reason to conclude that open carry is less socially  
4 beneficial -- or put it differently, open carry is more  
5 socially harmful than concealed carry than we do to say  
6 if you raise the price of something, you'll get less of  
7 it.

8 Both of them could be wrong in a certain case,  
9 but both of them have a lot of underlying economic and  
10 deterrence rationales to make them reasonable  
11 conclusions, absent some compelling evidence to the  
12 contrary. So that's the way I view this.

13 I have as strong a reason to accept that  
14 conclusion that open carry is more likely socially  
15 harmful than concealed carry, and unless there's  
16 compelling evidence that would undermine that theoretical  
17 case, I think it's a reasonable assumption, same way I  
18 would say, if somebody asked me if I raise the price of  
19 something, will I get less of it. I'd say yeah, I see  
20 compelling evidence. I would say yes.

21 BY MR. BRADY:

22 Q So then your conclusion about open carry is  
23 based on the exception to the rules of economics, not the  
24 standard?

25 MR. EISENBERG: Objection. Misstates prior

1 testimony.

2 THE WITNESS: No, I was drawing the opposite  
3 conclusion of that, I think. I was saying that the  
4 soundness of the economics and deterrent arguments behind  
5 the conclusion that open carry is more socially harmful  
6 than concealed carry are of roughly comparable weight to  
7 the arguments that exist behind the claim that if you  
8 raise the price of something, you'll get less of it.

9 Those are arguments are on comparable  
10 intellectual footing, and just as you were willing to  
11 accept the claim that if you raise the price of  
12 something, you'll get less of it, I'm willing to accept  
13 the claim that open carry is more socially -- likely to  
14 be more socially harmful than concealed carry.

15 BY MR. BRADY:

16 Q Despite there being no data on the subject  
17 express to open carry?

18 MR. EISENBERG: Objection. Argumentative.

19 THE WITNESS: Yeah. And as I said, the only time  
20 we ever rely on the argument that you get less of  
21 something when you raise the price is if we don't have  
22 the express information about that situation.

23 But that's the whole point of economic theory,  
24 that it allows us to draw inferences based on the power  
25 of that theory and the vast ways in which that theory has

1 been validated in many contexts.

2 BY MR. BRADY:

3 Q So it's acceptable in the scientific community  
4 to accept conclusions about Item A even though it --  
5 based on knowns of Item B just because they're similar?  
6 Even though you have no information about Item A.

7 A Yeah, I -- if you have no information, then  
8 it's not going to be adequate, but if somebody, you know,  
9 tells me, you know, they think crack cocaine is socially  
10 harmful, and here's a synthetic form of crack cocaine.  
11 Do you think that this will be harmful?

12 If I can evaluate the differences that are  
13 likely to exist between crack and the synthetic crack,  
14 then I'm comfortable saying, I don't know. Perhaps the  
15 synthetic crack would be less likely to lead to social  
16 consequences, but for these reasons I think the  
17 consequences are likely to be the same. Then I would  
18 draw that inference.

19 But, you know, on the other hand, if somebody  
20 says, Well, we've done studies, and the synthetic crack  
21 is much less likely to promote violence, then I'd say,  
22 Well, you can draw the same inferences.

23 So it depends on what the context of your other  
24 information is, and I think for the conclusions that I  
25 made in this paper, I think some of them are almost

1 uniformly accepted that open carry doesn't have any  
2 deterrent umbrella capacity the way concealed carry does  
3 and things of that nature. So I feel very comfortable  
4 drawing relative comparisons about the effectiveness of  
5 one versus the other.

6 Q Okay. You're using those inferences to  
7 establish what you believe is a likelihood, correct?

8 A Yes.

9 Q Okay. But you are cannot use those inferences  
10 to establish a certainty; is that correct?

11 A That's correct.

12 Q In other words, just like with concealed carry,  
13 your analysis of concealed carry, where you admitted  
14 earlier that you could be wrong; likewise, you could be  
15 wrong about the open carry analysis as well; is that  
16 correct?

17 A Yes. Any time I'm making a prediction or  
18 estimate, I could be wrong.

19 Q All right. Moving on. We are in the home  
20 stretch.

21 So have any of the studies you've conducted on  
22 firearms-related matters ever conclude that a particular  
23 gun-control law did not work?

24 MR. EISENBERG: Objection. Outside the scope of  
25 testimony.

1 THE WITNESS: Yeah. I mean, lots of things I  
2 think don't work. Gun buy-backs I don't think work. You  
3 know, any sort of very porous regulation, I think is  
4 unlikely to work.

5 So, you know, even the Brady Bill is probably  
6 vastly less effective because it's not uniform, and, you  
7 know, a pure assault weapon ban without a restriction on  
8 large-capacity magazines probably have minimal effect on  
9 overall crime.

10 BY MR. BRADY:

11 Q Speaking of my relatives at the Brady campaign,  
12 have you ever received any funding from the Brady  
13 campaign?

14 A No.

15 Q What about any Bloomberg group?

16 A No.

17 Q Violence Policy Center?

18 A No.

19 Q Oh, the Law Center to Prevent Gun Violence?

20 A No.

21 Q Everytown?

22 A The only thing I've ever done from anyone, the  
23 National Science Foundation and, you know, various  
24 employers.

25 Q Have you been in communication with any gun

1 control advocacy groups?

2 MR. EISENBERG: Objection. Vague and ambiguous as  
3 to "communication."

4 THE WITNESS: Yeah. I speak with, you know,  
5 anybody who's doing research in the area of guns from,  
6 you know, Gary Kleck and John Lott to, you know,  
7 Everytown people.

8 BY MR. BRADY:

9 Q Okay. Have you ever been invited to speak  
10 at a -- to speak at a gun-control group?

11 MR. EISENBERG: Objection. Irrelevant.

12 THE WITNESS: Jeess. Yeah, I think I have. I'm  
13 trying to think what group that might have been.

14 One time some group contacted me and asked me  
15 to speak about my research at a law firm in New York, and  
16 I think that was hosted by some -- maybe Everytown, but I  
17 don't recall.

18 BY MR. BRADY:

19 Q Have you ever been honored by any of those  
20 groups?

21 A No.

22 Q Received any awards?

23 A I did receive an award from some NRA group. It  
24 was mean, but --

25 Q Okay. Have you ever participated in drafting

1 any legislation regarding firearms?

2 A No.

3 Q Regulations?

4 A No.

5 Q Policies?

6 A No.

7 Q Have you ever made any speeches about the  
8 Second Amendment?

9 MR. EISENBERG: Vague and ambiguous as to  
10 "speeches."

11 THE WITNESS: Yeah, no, I don't think I made a  
12 speech about the Second Amendment. I obviously mention  
13 it at times, but nobody's ever asked me to testify in any  
14 legislative hearing or anything like that.

15 BY MR. BRADY:

16 Q What about an informal -- like a debate or  
17 something at a --

18 A Yeah, I frequently, you know, am asked to speak  
19 or couple times debate. I debated John Lott, Gary Kleck  
20 once. They were a panel, and I was on a panel.

21 Q Okay.

22 A Actually, I probably debated John a few times,  
23 but there was one time it was Gary Kleck and John on the  
24 other side.

25 Q Last set of questions, and we're done.



1                   What was your fee in the last case you worked  
2                   on as an expert?

3                   A   You know, I usually charge 850 an hour for just  
4                   my normal work, and usually, you know, about half that  
5                   for government work if, you know, if not an evil  
6                   government.

7                   Q   Is that why there's a \$350-an-hour difference  
8                   between your deposition rate and your testimony-at-trial  
9                   rate?

10                  A   No, I usually, you know, think of depositions  
11                  as a less pleasant part of life. So I do usually put  
12                  more -- put a higher rate for depositions than for normal  
13                  hours.

14                  But this has been --

15                  Q   Let the record reflect a tear down plaintiff's  
16                  counsel's cheek.

17                  That is a joke.

18                  A   This has been very pleasant, I should say.

19                  Q   Well, then I didn't do my job.

20                  So you've always charged 850 an hour for your  
21                  expert work?

22                  MR. EISENBERG:   Objection.   Misstates prior  
23                  testimony.

24                  THE WITNESS:   You know, that's what I've been  
25                  charging lately. And so all of my private consulting has

1 been at that rate.

2 MR. BRADY: I think with that I am done, unless  
3 Mr. Eisenberg would like to examine --

4 MR. EISENBERG: I have six or seven hours of  
5 questioning. So -- I'm just kidding.

6 MR. BRADY: That's all right.

7 MR. EISENBERG: I have no questions.

8 I think we should just discuss the logistics of  
9 the reviewing of the deposition transcript, and then we  
10 would be done.

11 THE WITNESS: So if I'm done, I probably should  
12 run --

13 MR. BRADY: Yeah, you should run.

14 MR. EISENBERG: -- to the airport.

15 MR. EISENBERG: Are you in danger of missing a  
16 flight?

17 THE REPORTER: Are we off the record?

18 MR. BRADY: Yes, why don't we go off the record.

19 (Discussion off the record)

20 (The witness leaves the deposition room.)

21 MR. EISENBERG: Okay. So we've been off the  
22 record talking about the logistics of handling the  
23 deposition, the signing of the deposition, and any  
24 corrections that Professor Donohue wants to make.

25 And we've recognized that if we give the

1 deponent the usual or conventional amount of time of 30  
2 days, that will put us right at or right before the  
3 deadline for filing dispositive motions currently on the  
4 case calendar, and that same issue will affect several of  
5 the depositions that are occurring in the future.

6 So we're going to make the following  
7 stipulation, and then if I'm wrong, I ask Anna to correct  
8 me.

9 The original deposition transcript will be  
10 ordered by plaintiff's counsel, and a certified copy will  
11 also be ordered by defense counsel.

12 And Professor Donohue will review and, if  
13 necessary, correct the transcript of the certified copy,  
14 which will be treated as identical for all purposes,  
15 sign, and deliver -- or have delivered to plaintiff's  
16 counsel by 30 days after the date that we receive -- that  
17 defense counsel receives the deposition transcript.

18 We're also making a stipulation right now that  
19 relates to summary judgment or other case-dispositive  
20 motion briefing, which is that, in the event that this  
21 transcript has not been signed and/or corrected by the  
22 witness because the time hasn't run yet for those things  
23 to occur, the parties will be allowed to use the  
24 unsigned, uncorrected deposition transcripts as if they  
25 had been signed and/or corrected with no objection from

1 the other side. Both sides will be allowed to do that.

2 And if the corrections or any changes to the  
3 deposition transcript that occur after one side or  
4 another has filed all or part of the briefing causes that  
5 side's counsel to want to modify the briefing to address  
6 the changes, whichever side that is, the other side will  
7 agree to submit a stipulation, consenting to the changes  
8 to the briefing caused by the changes to the deposition  
9 transcript.

10 Does that sound right to everybody?

11 MS. BARVIR: We'll agree to file a stipulation --  
12 would you repeat that one more time?

13 MR. EISENBERG: Okay. So let's just use the  
14 example of our side.

15 We file some brief, and then afterward the  
16 deposition transcript comes in, and it -- you know, in my  
17 opinion, it changes what I want to have in the motion.  
18 Your side will stipulate that you consent to me filing  
19 the additional briefing that would address the change in  
20 the deposition transcript, and, you know, any reasonably  
21 related issues in the brief, and that's a mutual  
22 covenant. So therefore, our side will extend the same  
23 courtesy to you.

24 MS. BARVIR: I think that properly covers what we  
25 discussed off the record.

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1 MR. EISENBERG: Okay. All right. So agreed?

2 MR. BRADY: What she said.

3 MR. EISENBERG: Yeah. So just if you wouldn't  
4 mind saying agreed.

5 MS. BARVIR: Agreed.

6 MR. EISENBERG: Okay. And then anything else?

7 MR. BRADY: I don't think so. On the record, I  
8 don't think so.

9 (The deposition concluded at 6:16 p.m.)

10 -\*\*\*-

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1  
2  
3 I, the undersigned, a Certified Shorthand  
4 Reporter of the State of California, do hereby certify:

5 That the foregoing proceedings were taken  
6 before me at the time and place herein set forth; that  
7 any witnesses in the foregoing proceedings, prior to  
8 testifying, were placed under oath by me; that a verbatim  
9 record of the proceedings was made by me using machine  
10 shorthand, which was thereafter transcribed by me;  
11 further, that the foregoing is an accurate transcription  
12 thereof; that before completion of the deposition, review  
13 of the transcript was requested.

14 I further certify that I am neither financially  
15 interested in the action nor a relative or employee of  
16 any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date subscribed  
18 my name.

19  
20 Dated: July 22, 2017

21  
22 

23 SHERRYL DOBSON  
24 CSR No. 5713  
25

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DECLARATION UNDER PENALTY OF PERJURY

ASSIGNMENT NO. J0614175

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I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
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