

Case No. 19-56004

In the United States Court of Appeals
for the Ninth Circuit

STEVEN RUPP, et al.,
Plaintiffs-Appellants,

v.

XAVIER BECERRA,
in his official capacity as Attorney General of the State of California,
Defendant-Appellee.

On Appeal from the United States District Court
for the Central District of California
Case No. 8:17-cv-00746-JLS-JDE

**APPELLANTS' EXCERPTS OF RECORD
VOLUME III OF XXII**

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January 27, 2020

Under Federal Rules of Appellate Procedure for the Ninth Circuit, rule 30-1, Plaintiffs-Appellants Steven Rupp, Steven Dember, Cheryl Johnson, Michael Jones, Christopher Seifert, Alfonso Valencia, Troy Willis, Dennis Martin, and California Rifle & Pistol Association, Incorporated, by and through their attorney of record, confirm to the contents and form of Appellants' Excerpts of Record.

Date: January 27, 2020

MICHEL & ASSOCIATES, P.C.

s/ Sean A. Brady

Sean A. Brady

Attorneys for Plaintiffs/ Appellants

Steven Rupp, et al.

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2020, an electronic PDF of APPELLANTS' EXCERPTS OF RECORD, VOLUME III OF XXII was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: January 27, 2020

MICHEL & ASSOCIATES, P.C.

s/ Sean A. Brady

Sean A. Brady

Attorneys for Plaintiffs-Appellants

Steven Rupp, et al.

EXHIBIT 53 PART 1 OF 2

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

RUPP, et al.,)
Plaintiffs,)
vs.) Case No.:
XAVIER BECERRA, in his) 8:17-cv-00746-JLS-JDE
official capacity as Attorney)
General of the State of)
California; et al.,)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF JOHN J. DONOHUE

San Francisco, California

Thursday, December 6, 2018

Volume 1

Reported by:

RACHEL FERRIER, CSR No. 6948

Job No. 3135713

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THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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Plaintiffs,)
vs.) Case No.:
XAVIER BECERRA, in his) 8:17-cv-00746-JLS-JDE
official capacity as Attorney)
General of the State of)
California; et al.,)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF JOHN J. DONOHUE,
VOLUME 1, taken on behalf of the Plaintiffs, at
Office of the Attorney General, 455 Golden Gate Avenue,
Site 11000, San Francisco, California, beginning at
10:12 a.m. and ending at 6:23 p.m. on Thursday,
December 6, 2018, before RACHEL FERRIER, Certified
Shorthand Reporter No. 6948.

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23 VISUAL DISCOVERY

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1 San Francisco, California; Thursday, December 6, 2018

2 10:12 a.m.

3 10:11:35

4 THE VIDEOGRAPHER: Good morning. 10:11:35

5 We are going on the record at 10:12 on 10:11:57

6 December 6, 2018. 10:12:02

7 Please note that microphones are sensitive and 10:12:03

8 may pick up whispering, private conversations, and 10:12:06

9 cellular interference. 10:12:09

10 Please turn off all cell phones or place them 10:12:10

11 away from the microphones as they can interfere with the 10:12:12

12 deposition audio. 10:12:16

13 Audio and video recording will continue to take 10:12:17

14 place unless all parties agree to go off the record. 10:12:20

15 This is Media Unit 1 of the video-recorded 10:12:23

16 deposition of John J. Donohue taken by counsel for 10:12:26

17 Plaintiff in the matter of Rupp versus Becerra filed in 10:12:29

18 the United States District Court, Central District of 10:12:35

19 California. 10:12:37

20 This deposition is being held at the Department 10:12:38

21 of Justice, Office of the Attorney General, located at 10:12:41

22 455 Golden Gate Avenue, San Francisco, California 94102. 10:12:44

23 My name is Reynaldo Salas, Junior, from the firm 10:12:49

24 Veritext, and I am the videographer. The Court Reporter 10:12:53

25 today is Rachel Ferrier, from the firm Veritext. 10:12:56

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1 I'm not authorized to administer an oath. I'm 10:13:00
2 not related to any party in this action, nor am I 10:13:02
3 financially interested in the outcome. 10:13:05
4 Counsel and all present in the room and everyone 10:13:07
5 attending remotely will now state their appearances and 10:13:10
6 affiliations for the record, beginning with the 10:13:15
7 questioning attorney. 10:13:16
8 MR. BRADY: Sean Brady for Plaintiffs. 10:13:17
9 MR. CHANG: Peter Chang, Department of Justice 10:13:18
10 for Defendant Xavier Becerra. 10:13:23
11 THE VIDEOGRAPHER: If there are any objections to 10:13:26
12 proceeding, please state them at the time of your 10:13:28
13 appearance, beginning -- excuse me. 10:13:30
14 Will the Court Reporter please swear in the 10:13:32
15 witness. 10:13:33
16 JOHN J. DONOHUE, 10:13:33
17 having been administered an oath, was examined and 10:13:33
18 testified as follows: 10:13:40
19 THE WITNESS: I do. 10:13:40
20 THE VIDEOGRAPHER: Please begin. 10:13:42
21 EXAMINATION 10:13:43
22 BY MR. BRADY: 10:13:43
23 Q Good morning, Professor Donohue. 10:13:43
24 You have been designated as an expert witness by 10:13:45
25 the California Attorney General's Office in the matter 10:13:48

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1 of Rupp v Becerra; is that correct? 10:13:50

2 A That's correct. 10:13:54

3 Q And you have submitted a report laying out your 10:13:55

4 opinions as an expert witness in that matter; is that 10:13:59

5 correct? 10:14:01

6 A That's correct. 10:14:01

7 MR. BRADY: I would like to mark, as Exhibit 4, 10:14:02

8 that report. 10:14:06

9 Would you please take a look and confirm that is, 10:14:12

10 indeed, the -- could you take a look and please confirm 10:14:13

11 that that is, indeed, your report. 10:14:21

12 (Exhibit 4 was marked for identification 10:14:49

13 by the Court Reporter.) 10:14:49

14 (Discussion off the stenographic record.) 10:14:50

15 BY MR. BRADY: 10:14:50

16 Q So that is, indeed, your report? 10:14:57

17 A We're -- we're up to Exhibit 4 already? 10:15:01

18 Q So for your background, we have already had one 10:15:04

19 deposition in which there were three exhibits submitted, 10:15:07

20 and counsel, Peter Chang and I, have agreed that we will 10:15:11

21 try to keep not overlapping exhibits for the purposes of 10:15:15

22 referencing them in briefing. 10:15:19

23 Does that make sense? 10:15:22

24 A Sure. Sure. 10:15:23

25 Q So that is why it started Exhibit 4. 10:15:24

Page 8

1	A	Okay.	10:15:29
2	Q	So --	10:15:35
3		MR. CHANG: It's what the local rules require.	10:15:35
4		BY MR. BRADY:	10:15:44
5	Q	-- what were you being -- designated as an expert	10:15:46
6		in for the purposes of this case?	10:15:49
7	A	Well, I was asked to you provide expert testimony	10:15:50
8		on aspects of the assault weapon ban in California and	10:16:00
9		on issues relating to, you know, both the effectiveness	10:16:05
10		of the ban and the legality of the ban.	10:16:12
11	Q	And what expertise do you have to make those	10:16:17
12		opinions?	10:16:23
13	A	Just research in -- in the area relevant to	10:16:24
14		crime, and guns in particular, over an extended period	10:16:31
15		of time.	10:16:36
16	Q	Are you a criminologist?	10:16:36
17	A	Some people refer to me as a criminologist, but	10:16:38
18		I -- I think of myself more as a lawyer and economist	10:16:43
19		who focuses on crime and criminal justice issues.	10:16:51
20	Q	Do you have a degree in criminology?	10:16:55
21	A	No.	10:16:57
22		MR. BRADY: I would like to mark as Exhibit 5.	10:17:05
23		(Exhibit 5 was marked for identification	10:17:23
24		by the Court Reporter.)	10:17:24
25		BY MR. BRADY:	10:17:24

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1 Q Does this document look familiar to you? 10:17:24

2 A Yeah, it's -- looks like it's an excerpt from 10:17:26

3 something I wrote. 10:17:31

4 Q Correct. 10:17:34

5 Could you turn to the last page of the excerpt -- 10:17:37

6 A Yeah. 10:17:40

7 Q -- which is page 12 of your full report, but the 10:17:40

8 second page of this excerpt -- or the last page of this 10:17:47

9 excerpt. 10:17:51

10 A Yeah. 10:17:52

11 Q You have five numbered categories, and it says 10:17:52

12 that you would deem the current methodol- -- 10:18:05

13 methodological hierarchy for determining the causal 10:18:08

14 impact of law and policies in the -- in the following 10:18:13

15 way. 10:18:17

16 Do you see that? 10:18:19

17 A Yes. 10:18:19

18 Q Do you still agree that that is what you consider 10:18:20

19 the methodologic- -- methodological hierarchy for 10:18:27

20 determining the causal impact of laws and policies? 10:18:31

21 A Yes. I think if you have, you know, an array of 10:18:35

22 different approaches, again controlling for quality of 10:18:43

23 data and the quality of the researcher, this would be my 10:18:47

24 sort of preferred hierarchy. 10:18:54

25 Q Do surveys fit anywhere in on these five? 10:18:58

Page 10

1 A Well, surveys, you know, might -- might be put in 10:19:04
2 a slightly different category in the sense that, here, I 10:19:16
3 was trying to -- I was trying to talk about how can we 10:19:18
4 determine what the causal impact of law or policies will 10:19:25
5 be, and surveys provide information, but may -- may not 10:19:29
6 be -- or -- or aren't always focused on trying to 10:19:34
7 determine the causal impact of a law or policy. 10:19:39

8 Q Okay. So just to clarify, surveys would not be 10:19:43
9 in any of these; they're -- it's a separate thing? 10:19:50

10 A I mean, you could -- I guess, depending on what 10:19:54
11 you are trying to use the survey for. You might be 10:19:59
12 trying to, you know, identify the causal impact of a law 10:20:01
13 or policy, so -- so surveys would potentially pro- -- 10:20:06
14 provide evidence. 10:20:14

15 But, you know, I guess if I were going to try to 10:20:16
16 cram surveys into this category, I would probably put 10:20:20
17 them down into five, so -- so -- 10:20:22

18 Q So it would be within graphs or percentages, or 10:20:26
19 it would replace graphs or percentages? 10:20:30

20 A No. I mean, if I were trying to get it into 10:20:31
21 the -- the broad category, I would probably put them, 10:20:34
22 you know, graphs surveys or graphs percentages or survey 10:20:37
23 data. 10:20:42

24 Q Okay. So surveys would be a separate item on 10:20:42
25 this list, and it would probably be amongst the fifth 10:20:45

1 category? 10:20:49

2 A Yeah, I mean, I -- I'm trying to think of how 10:20:50

3 surveys would be offered to opine on the causal impact 10:20:56

4 of law or policy, but if -- if they were, then my quick 10:21:04

5 thought is that they would probably be down in that -- 10:21:07

6 that category. 10:21:10

7 Q Okay. Can you turn to page 4 of your report 10:21:11

8 marked as Exhibit 4. 10:21:26

9 A Page 4 of my report, yes. Okay. 10:21:30

10 Q I'm sorry, I meant page 6. 10:21:34

11 A Okay. Page 6. 10:21:37

12 Q At the bottom, beginning under "Discussion," you 10:21:41

13 have a heading that says: Gun ownership is becoming 10:21:46

14 more concentrated in a declining portion of the 10:21:49

15 population; is that correct? 10:21:52

16 A Yes. 10:21:53

17 Q And in support of that, you cite the General 10:21:53

18 Social Science Survey; is that correct? 10:22:00

19 A Yes. 10:22:02

20 Q And you cite to the Pew Research Center Survey; 10:22:03

21 is that correct? 10:22:12

22 A Yes. 10:22:12

23 Q And it looks like you cite to some other papers 10:22:12

24 analyzing surveys; correct? 10:22:19

25 A Yes. 10:22:20

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1 Q In formulating your opinion that gun ownership is 10:22:21

2 becoming more concentrated in a declining portion of the 10:22:28

3 population, did you consider anything other than 10:22:32

4 surveys? 10:22:35

5 A Yeah, I did consider other factors. 10:22:45

6 Q Other factors or other materials? What -- what 10:22:48

7 were the factors you considered? 10:22:51

8 A Well, you know, when -- whenever you are trying 10:22:52

9 to figure out a aspect of social life, as the General 10:22:56

10 Social Survey is trying to do, you know, there can be 10:23:06

11 other things that you can bring in that -- that might be 10:23:08

12 relevant to look at, and so here we are interested in 10:23:11

13 finding out about, you know, gun ownership, and, you 10:23:16

14 know, there are other indicia of gun ownership that I've 10:23:23

15 looked at, things like, you know, gun sales or -- or, 10:23:29

16 you know, background checks, and things of that nature, 10:23:34

17 so they are not surveys, but they are, you know, other 10:23:36

18 ways of thinking about how you would document the actual 10:23:41

19 levels of household gun ownership. 10:23:51

20 Q And how did those nonsurvey materials that you 10:23:52

21 considered help bolster your opinion that gun ownership 10:23:55

22 is becoming more concentrated in a declining portion of 10:24:01

23 the population? 10:24:05

24 A Yeah, I mean, the -- the -- the -- the problem 10:24:07

25 with the -- the other data is it doesn't give you good 10:24:13

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1 purchase on what's happening with actual gun possession. 10:24:22
2 So while, you know, you would want to look at 10:24:27
3 everything, it probably didn't inform my opinion on the 10:24:30
4 conclusion that I reached here. 10:24:35

5 Q So, then, the surveys are the sole thing that you 10:24:37
6 made your opinion here on? 10:24:46

7 A Well, I mean, I -- I think the -- the surveys 10:24:49
8 gave us the sort of best estimates of percentages, but 10:24:53
9 one -- you know, one always is looking at everything 10:25:03
10 when you are researching in a certain area to get a 10:25:07
11 sense of whether this seems to be consistent or 10:25:12
12 explicable pattern, and so, you know, try to understand 10:25:15
13 what's happening with gun ownership and why it's 10:25:20
14 declining, and that pushes you to look at things like 10:25:23
15 hunting licenses, so it's not a survey, but that's 10:25:26
16 probably an important factor in why gun ownership is 10:25:28
17 declining, and then you can think about things like the 10:25:34
18 composition of the population, and more urban a 10:25:38
19 population would be, the lower the rates of gun 10:25:41
20 owner- -- gun ownership typically would be. 10:25:45

21 So -- so, you know, you are bringing in all of 10:25:47
22 the -- all of the available evidence and trying to come 10:25:49
23 to some considered judgment as to what overall gun 10:25:53
24 ownership looks like. 10:25:57

25 Q Did you evaluate that evidence that you just 10:25:58

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1 described in coming to the conclusion that gun ownership 10:26:01

2 is becoming more concentrated? 10:26:05

3 A Yes. Yes. 10:26:08

4 Q And where is that reflected in your report? 10:26:08

5 A Well, I -- I referenced a paper that I wrote in 10:26:10

6 2017 on this topic, and that paper discusses those 10:26:15

7 issues. 10:26:21

8 Q Can you direct me to where that is, please? 10:26:22

9 A To the citation? 10:26:24

10 Q Yes. 10:26:30

11 A Okay. Oh, here it is. So I don't -- yeah, so 10:27:23

12 it's paragraph 19 of page 7, and it says: GSS Data from 10:27:25

13 2016 states that roughly 31 percent of American 10:27:29

14 households have at least one gun, see Donohue & Rabbani, 10:27:35

15 and that -- that paper is attached to the Exhibit 4. 10:27:39

16 Q Okay. So Donohue & Rabbani analyzes hunting 10:27:45

17 licenses and background checks in urban versus rural 10:27:51

18 trends? 10:27:57

19 A Yeah. 10:27:58

20 Q Okay. Is the material from Donohue & Rabbani 10:27:58

21 more or less influential, in your opinion, than the 10:28:16

22 survey data that you analyze in your report? 10:28:20

23 A You know, it -- it's all sort of part of the 10:28:22

24 array of factors that -- that led to the conclusions 10:28:30

25 that I reached here, and, you know, I think, again, 10:28:35

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1 whenever you are trying to draw conclusions about, you 10:28:43
2 know, prevalence of something, whether you are talking 10:28:48
3 about, you know, a legal drug possession or -- or gun 10:28:50
4 ownership, you are never going to get perfect estimates, 10:28:54
5 and so you have to use the available evidence. 10:29:01

6 And so the first place I would always go would be 10:29:06
7 the General Social Survey for the gun figures because 10:29:08
8 they have been asking that question for a long time, and 10:29:12
9 they are considered the best survey research outfit. 10:29:16

10 But then I wanted to look at other factors and -- 10:29:22
11 and try to understand why -- why gun ownership might be 10:29:26
12 falling, and that led me to look at things like hunting 10:29:30
13 licenses and urban/rural shifts and things like that. 10:29:33

14 Q How did -- how did hunting licenses influence 10:29:37
15 your opinion here? 10:29:40

16 A You know, again, it was just reflecting the fact 10:29:41
17 that we -- we see declines in -- in hunting, and so, for 10:29:47
18 example, in the report it says: Whereas, in 1977, 10:29:55
19 31.6 percent of adults recorded being a hunter or 10:30:02
20 married to one. In 2016, the corr- -- corresponding 10:30:05
21 rate was only 17.1 percent. 10:30:08

22 So you get the sense that America is getting -- 10:30:13
23 turning away from hunting, and, of course, that's one 10:30:19
24 reason why we are here. If Americans hadn't turned away 10:30:23
25 from hunting, there wouldn't be such a push to sell 10:30:26

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1 assault weapons, because you would be selling hunt- -- 10:30:29

2 hunting weapons. 10:30:33

3 Q Why is that? 10:30:34

4 A Why is -- 10:30:35

5 Q On what do you base that opinion? 10:30:37

6 A Well, that was a very conscious effort on the 10:30:38

7 part of the gun industry to make up for the lagging 10:30:41

8 hunting sales, to try to promote the sales of assault 10:30:45

9 weapons. 10:30:49

10 Q On what do you base that opinion? 10:30:49

11 A Years of research. 10:30:51

12 Q Into what? 10:30:52

13 A Into the marketing practices of the gun industry 10:30:54

14 in the United States. 10:31:01

15 Q Have you ever interviewed any marketers for the 10:31:01

16 gun industry? 10:31:04

17 A I generally find speaking to people in the gun 10:31:04

18 industry as not going to be informative on the issues 10:31:10

19 that I would be interested in. 10:31:12

20 Q So, then, you don't know their motivation in 10:31:14

21 making those ads; is that fair to say? 10:31:16

22 A Well, we -- we have much written information 10:31:18

23 about what those motivations were, so there's -- there's 10:31:25

24 been much written about when the industry consciously 10:31:29

25 decided to backfill, you know, the -- the tremendous 10:31:36

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1 crime decline of the period that roughly corresponded to 10:31:42
2 the Clinton years of 1993 to 2000, was a devastating 10:31:47
3 blow to sales of guns, with crime dropping so sharply, 10:31:52
4 so there was a very concerted effort on the part of the 10:31:56
5 gun industry to find ways to stimulate the sale of guns, 10:31:59
6 with hunting going downwards and crime going downwards, 10:32:05
7 so this was a very perilous trend for the gun industry, 10:32:10
8 so a very concerted effort was made to try to change 10:32:14
9 laws around the country and be more actively involved in 10:32:18
10 politics to advance their agenda of selling guns to 10:32:22
11 Americans. 10:32:28

12 Q That -- that's a theory of yours, though; 10:32:29
13 correct? 10:32:31

14 A No, that's a fact. 10:32:31

15 Q It's a fact that the gun industry was engaged in 10:32:32
16 a particular campaign for a particular purpose of 10:32:39
17 increasing gun sales? 10:32:41

18 A Yes. 10:32:43

19 Q Okay. And your evidence of that is what? 10:32:44

20 A I was just giving you part of the evidence, but 10:32:46
21 this is well known, well documented, and well discussed 10:32:49
22 in -- in the literature. 10:32:54

23 Q Can you cite one piece of literature, other than 10:32:55
24 yours? 10:32:59

25 A Well, you can look to mine and -- and find 10:32:59

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1 citations. 10:33:04

2 Q So you don't think it's fair to say that your 10:33:05

3 characterization of the gun industry's purpose in 10:33:11

4 promoting the sale of so-called assault weapons is that 10:33:18

5 they were trying to increase gun sales versus simply 10:33:24

6 selling firearms that the -- the public wanted? 10:33:29

7 MR. CHANG: Objection; vague and complex. 10:33:32

8 THE WITNESS: I mean, you know, they are -- they 10:33:38

9 are in it to make money, and when crime goes down, 10:33:42

10 that's a bad thing for them because gun sales go down. 10:33:44

11 When hunting goes down, that's a bad thing for them, so 10:33:47

12 they got to find ways to try to turn that around, so 10:33:50

13 they were -- they were effective, and they lobbied in 10:33:54

14 Congress and state legislatures to get laws changed to 10:33:59

15 expand their market and aggressively marketed and -- you 10:34:03

16 know, just look at all the ads for assault weapons, and, 10:34:09

17 you know, I think they've -- they've done a good job in 10:34:16

18 promoting their -- their product. 10:34:18

19 BY MR. BRADY: 10:34:20

20 Q How did the urban to -- I'm sorry, the 10:34:36

21 rural-to-urban shift that you mentioned affect your 10:34:39

22 opinion on gun ownership becoming more concentrated? 10:34:42

23 A You know, again, it was trying to understand what 10:34:46

24 were the contours of, you know, the -- the longer trends 10:34:52

25 in gun ownership, and since the decline of hunting was 10:34:58

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1 part of that, I was curious: Was it rural people are 10:35:04
2 just getting less interested in hunting, or is it, 10:35:07
3 perhaps, you know, when people move from the rural to 10:35:11
4 more urban areas, they are -- they are sort of taken 10:35:16
5 away from the hunting milieu? So I was just trying to 10:35:19
6 see what I could tease out from the -- the data on that. 10:35:25
7 Q And what did you tease out? 10:35:28
8 A You know, it wasn't a core concern, but it did 10:35:30
9 seem to me that you were getting a little bit of both of 10:35:40
10 those: declining interest in hunting and then, 10:35:42
11 importantly, a -- a shift in the population locales for 10:35:49
12 people away from rural areas, and those -- those folks 10:35:57
13 just tend to have less interest in hunting. 10:35:59
14 And so if you look over time, you know, 30, 10:36:03
15 40 years ago, most people who had guns said that they 10:36:08
16 had them for hunting purposes, and now it's a pretty 10:36:10
17 small percentage who say that. 10:36:14
18 Q Did you see any analysis on whether ownership of 10:36:16
19 so-called assault weapons is higher or lower in rural 10:36:26
20 areas? 10:36:30
21 A Yeah, I -- I -- I didn't -- I didn't look into 10:36:30
22 that, but I would assume it's higher in rural areas. 10:36:37
23 Q Why -- why would you assume that? 10:36:41
24 A You know, my general assumption would -- would be 10:36:42
25 in -- in rural areas, you are most concerned about the 10:36:53

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1 damaging consequences of a gun that can, you know, shoot 10:36:59
2 a bullet that goes as far as an assault weapon or -- so 10:37:09
3 if you're -- if you're in an urban environment, that's 10:37:17
4 usually not a wise thing, to be shooting bullets of -- 10:37:20
5 out of a long rifle. 10:37:27

6 Q On what do you base that opinion? 10:37:32

7 A Well, I mean, just think if we were -- if someone 10:37:34
8 here in San Francisco was firing a -- a gun if they saw 10:37:42
9 a squirrel or something like that. That might be fine 10:37:51
10 in a -- in a rural area, but probably would not be wise 10:37:55
11 behavior in a more urban context. 10:38:01

12 Q Have you done any research into whether police 10:38:04
13 officers -- urban police officers carry assault weapons? 10:38:11

14 A Some do. 10:38:14

15 Q Are they being unwise? 10:38:16

16 A Well, obviously there's almost no relationship 10:38:19
17 between what military and police need and what, you 10:38:26
18 know, your nonmilitary or nonpolice individual needs, 10:38:31
19 so. 10:38:34

20 Q I didn't ask about need; I asked about it being 10:38:35
21 unwise. 10:38:39

22 You were talking about the physics of discharging 10:38:39
23 a rifle in a confined urban area; correct? 10:38:42

24 Do the physics change whether the rounds 10:38:47
25 coming -- being fired from a rifle by a civilian or 10:38:50

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1 police officer or a soldier? 10:38:53

2 MR. CHANG: Objection; argumentative. 10:38:57

3 THE WITNESS: You know, all -- all my opinions 10:38:59

4 are -- are based on two elements. I am a Ph.D. 10:39:02

5 economist, so cost and benefits. 10:39:07

6 Police have significant benefits, at times, for 10:39:12

7 using assault weapons, and individual citizens do not 10:39:14

8 have the same sort of cost/benefit ratio with use of 10:39:20

9 assault weapons. 10:39:25

10 BY MR. BRADY: 10:39:33

11 Q Can you explain that? 10:39:33

12 A Well, as -- as I indicated, military, of course, 10:39:35

13 which is where these weapons were developed and devised 10:39:40

14 for, have the highest need. They have to kill as many 10:39:43

15 of the enemy as they can, and so giving them the most 10:39:45

16 lethal and destructive weapon is sort of part of the 10:39:51

17 goals of the Department of Defense. 10:39:57

18 When you get down to police, they have 10:39:58

19 trade-offs. They -- they want to be lethal in their use 10:40:04

20 of force, but in a much more constrained way. 10:40:09

21 And then, essentially, for the individual 10:40:16

22 citizen, who has no, you know, need to protect the 10:40:19

23 public or arrest individuals, there would be a much 10:40:22

24 reduced need for more assaultive weapons and only a need 10:40:29

25 for more limited defensive capabilities. 10:40:37

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1 Q I'm sorry, did you say that police want to be 10:40:39
2 more lethal? 10:40:44

3 A No. I said that they have an area in which they 10:40:46
4 need to exert lethal force, but much less so than the 10:40:51
5 military, where the -- the name of the game is to 10:40:58
6 exercise lethal force when you are involved in -- in 10:41:01
7 combat. 10:41:04

8 Q So is it fair to say that, while police officers 10:41:05
9 are more likely to engage a criminal in a gunfight, that 10:41:12
10 once a gunfight commences, a police officer and a 10:41:20
11 civilian are in the same shoes, from a legal standpoint, 10:41:25
12 as far as the ability to use self -- lethal force? 10:41:31

13 MR. CHANG: Objection; lacks foundation, calls 10:41:40
14 for speculation. 10:41:46

15 THE WITNESS: Yeah, I mean, police -- police 10:41:46
16 obviously are trained and directed to use lethal force. 10:41:48
17 You, as a private citizen, might have that legal right 10:41:58
18 in certain circumstances, but, presumably, as a matter 10:42:06
19 of course, it would be much less likely. 10:42:08

20 BY MR. BRADY: 10:42:12

21 Q My -- my question's a little bit different, 10:42:13
22 Professor. It's that: Are -- is there a different 10:42:17
23 standard for the ability to use lethal force between 10:42:20
24 civilians and peace officers that you are aware of? 10:42:24

25 A Yeah. There are -- there are different statutes 10:42:26

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1 that would be applying. Usually you'd -- you'd have a 10:42:30
2 little more authority as a police officer. 10:42:34
3 Q To use lethal force? 10:42:42
4 A Yes. 10:42:45
5 Q So the standard -- the legal standard for -- 10:42:45
6 you're operating under the assumption that the legal 10:42:48
7 standard for a peace officer to use lethal force is 10:42:53
8 different and lesser than that for a civilian? 10:42:58
9 A In -- in general, police officers have greater 10:43:01
10 legal authority to use any type of force, whether it's 10:43:08
11 lethal or nonlethal. 10:43:13
12 Q And how do you know that? 10:43:15
13 A Just being a law professor of criminal law. 10:43:33
14 Q So do you consider yourself an expert in police 10:43:35
15 practices? 10:43:39
16 A I -- I -- I think "police practices" is a very 10:43:42
17 encompassing category, and much of it would be beyond 10:43:46
18 what I would consider my expertise. 10:43:51
19 Q Would you consider yourself an expert in law 10:43:53
20 enforcement use of force? 10:44:04
21 A You know, it's certainly something I've -- I've 10:44:11
22 studied. 10:44:15
23 Q Have you ever written any papers on it? 10:44:15
24 A No. 10:44:17
25 Q Okay. Getting back to the opinion about gun 10:44:18

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1 ownership becoming more concentrating -- more 10:44:34

2 concentrated in a declining portion of the population -- 10:44:35

3 A Yeah. 10:44:39

4 Q -- we -- we diverted off a little bit from the 10:44:39

5 two sort of buckets, if you will, of materials you 10:44:45

6 considered in forming that opinion. 10:44:49

7 And correct me if I'm wrong, if I'm misstating 10:44:50

8 your testimony at any time -- I'm generalizing, 10:44:53

9 obviously -- but it sounds like you evaluated survey 10:44:56

10 data and then the things that we just discussed that you 10:45:00

11 laid out in your paper Donohue & Rabbani, such as 10:45:06

12 hunting licenses, urban rule trends, etc. 10:45:11

13 Is that fair to say? Those are basically the two 10:45:18

14 buckets of materials you considered in formulating this 10:45:22

15 opinion? 10:45:25

16 A Well, certainly those were -- those were two 10:45:25

17 things, but -- but the -- the paper is -- is more 10:45:33

18 encompassing. 10:45:38

19 So, for example, one -- one proxy that is often 10:45:38

20 used for gun ownership is something like the percentage 10:45:43

21 of suicides that are committed with a gun, and so you 10:45:50

22 can trace that as one element. You can also look at 10:45:54

23 accidental gun deaths. 10:45:59

24 So these are all things that bear on the issue 10:46:01

25 of -- of how prevalent guns are. 10:46:06

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1 Q Why is that? 10:46:10

2 A Well, if you want to kill yourself, guns are -- 10:46:11

3 are sort of an easy vehicle to that objective, and so 10:46:21

4 when they are prevalent, people often will -- will turn 10:46:26

5 to those, and so a lot of research has been done to try 10:46:31

6 to see how successful that -- that ratio of suicides 10:46:35

7 to -- I mean gun suicides to total suicides is as 10:46:42

8 capturing the underlying prevalence of guns in the 10:46:50

9 particular area that you are looking at. 10:46:55

10 Q And do you know whether gun suicides are 10:46:57

11 increasing or decreasing at the moment? 10:47:02

12 A You know, there has been an upward tick in -- in 10:47:04

13 suicides generally, but I -- I don't -- I don't think 10:47:18

14 that the gun suicide rate has driven that. I think it's 10:47:20

15 just an overall set of pathologies that are sort of on 10:47:27

16 the rise right now in certain communities, and so, 10:47:33

17 overall, suicides are rising, and, of course, as overall 10:47:36

18 suicides rise, gun suicides will rise as well. 10:47:39

19 Q So how does that inform the opinion that you 10:47:42

20 formulated about gun ownership becoming more 10:47:46

21 concentrated? 10:47:49

22 A Yeah, the -- that -- that was just going to 10:47:50

23 issues of prevalence, but not -- not particularly about 10:47:56

24 concentration. 10:47:59

25 Q So how did it influence your opinion about 10:48:00

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1 prevalence? 10:48:03

2 A Well, as -- as I said, I -- I -- I looked at the 10:48:04
3 various proxies that have been offered and -- and tried 10:48:12
4 to see, you know, what was happening with these various 10:48:20
5 issues, and that's everything from background checks to 10:48:28
6 licenses or -- you know, hunting licenses or accidental 10:48:32
7 gun death rates to suicides, and, you know, some of the 10:48:38
8 factors cut one way, some cut the other way, but my 10:48:43
9 overall conclusion was that the General Social Survey 10:48:51
10 seemed to hold up pretty well as a, you know, estimation 10:48:54
11 for what had been happening with gun prevalence over 10:49:00
12 time. 10:49:03

13 Q So are you saying that you used those other 10:49:03
14 factors to corroborate these surveys? 10:49:07

15 A Well, to -- to see if they could shed light on 10:49:09
16 the underlying issues. As I -- as I said, some of these 10:49:16
17 factors, you know, might have been moving in one 10:49:21
18 direction. Some might be moving in another direction. 10:49:25
19 And then you're put in a position of trying to see if 10:49:28
20 you can make sense of the -- the differing aspects of 10:49:31
21 data. 10:49:35

22 Q So, overall, in formulating your opinion about 10:49:37
23 gun ownership becoming more concentrated, is it fair to 10:49:42
24 say that you mostly relied on the surveys? 10:49:46

25 A Yeah, for the -- for the issue about 10:49:48

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1 concentration, I think that that's where most of that 10:49:57
2 evidence comes from, you know, everything from the 10:50:01
3 General Social Survey to Pew data to the -- you know, I 10:50:06
4 think it was the Ausrale [phonetic] paper tried to hone 10:50:11
5 in on some of those questions, and so I was relying on 10:50:18
6 those. Things like, you know, the declining hunting 10:50:22
7 licenses doesn't really reflect on how concentrated gun 10:50:30
8 ownership is becoming. It speaks more to the issue of 10:50:36
9 why we are seeing declines in certain areas. 10:50:39
10 Q Looking at the surveys you considered -- 10:50:56
11 A Mm-hmm. 10:50:56
12 Q -- you ranked the GSS, the General Social Science 10:51:06
13 Survey, as the one you relied on most. 10:51:10
14 Is that fair to say? 10:51:12
15 A Yeah. 10:51:15
16 Q And, after that, what was the second-most 10:51:16
17 important survey you considered in forming your opinion? 10:51:27
18 A You know, the -- the Ausrale survey, which I cite 10:51:30
19 in the paper -- in my report, was more limited in scope 10:51:38
20 in the sense that it was done at a certain point in 10:51:46
21 time, unlike the General Social Survey, which is an 10:51:48
22 ongoing survey and, you know, has been generating 10:51:53
23 information over a long period of time. 10:51:57
24 The -- the General Social Survey asks a narrower 10:52:00
25 set of questions, so it was -- it was better for giving 10:52:06

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1 us the broad sweep of what was happening, while the 10:52:10
2 Ausrale paper was -- was, you know, much more focused on 10:52:14
3 who has what right now, and that provided, you know, 10:52:19
4 better information about the degree of concentration of 10:52:25
5 ownership. 10:52:28

6 Q And if you look at paragraph 19 in your report, 10:52:29
7 the first sentence says: GSS data from 2016, the most 10:52:41
8 recent year that data is available -- excuse me -- 10:52:47
9 states that 30 percent of American households have at 10:52:52
10 least one gun. 10:52:55

11 A Mm-hmm. 10:52:56

12 Q Are you saying that that's the most recent year 10:52:56
13 for GSS data or data on the question of American 10:53:00
14 households having guns in general? 10:53:06

15 A Yeah, I mean, the GSS comes out every two years, 10:53:10
16 so, you know, at some point the 2018 GSS data will come 10:53:15
17 out and we will have a -- another estimate from them. 10:53:20

18 Q But my question is: When you say "the most 10:53:27
19 recent year that data is available," are you limiting 10:53:29
20 that to GSS data, or are you -- 10:53:32

21 A Oh, yeah. Yeah. 10:53:32

22 Q -- saying data in general? 10:53:34

23 A Yeah. Yeah. When I wrote that, I was just 10:53:35
24 saying, I'm giving you the latest GSS data that's 10:53:38
25 available. That's -- that's all I was saying. 10:53:41

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1 Q Got it. 10:53:42

2 A Yeah. 10:53:43

3 Q If you go down to paragraph 20, you state, quote: 10:53:43

4 Other national surveys show similar results, such as 10:53:53

5 research by the Pew Research Center and the National 10:53:58

6 Behavior- -- Behavioral Risk Factor Surveillance System, 10:54:05

7 which both find a persistent decline in household gun 10:54:05

8 ownership over the past several decades -- 10:54:10

9 A Yeah. 10:54:14

10 Q -- unquote. 10:54:14

11 So both the Pew Research Center and the National 10:54:15

12 Behavior Risk -- Risks [sic] Factor Surveillance System 10:54:32

13 find a persistent 39 in household gun ownership. 10:54:32

14 Is that your opinion today? 10:54:35

15 A Yeah, I mean, the -- the General Social Survey 10:54:36

16 is -- is a much longer tenured survey, so we -- we do 10:54:47

17 have that data for quite a bit of time, and -- and that 10:54:50

18 really does document, I think rather well, the -- the 10:54:59

19 decline. 10:55:05

20 And what the Behavioral Risk Factor survey shows, 10:55:08

21 or at least concludes, is that the -- the -- the 10:55:13

22 estimates are -- are quite similar for the GSS and the 10:55:20

23 Behavioral Risk Factor. 10:55:28

24 So, again, in the earlier -- you know, 30, 10:55:31

25 40 years ago where maybe half the population of 10:55:37

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1 households were identified in the GSS as having a gun, 10:55:40
2 and now it's down, you know, in the neighborhood of 10:55:45
3 30 percent or something, the Behavioral Risk Factor 10:55:49
4 survey figures closely match, since 2000, what the GSS 10:55:54
5 said. 10:56:03

6 Q Would you turn to Exhibit B of your report -- 10:56:04

7 A Okay. 10:56:04

8 Q -- the second page. 10:56:18

9 A Okay. 10:56:20

10 Q I'm sorry, the third page. 10:56:20

11 A Okay. 10:56:22

12 Q And there you have a table -- correct? -- that 10:56:22

13 says: Survey rates of national household gun ownership, 10:56:29

14 1959 to 2015; is that correct? 10:56:33

15 A Yes. 10:56:35

16 Q And if you look at the -- the little figures, the 10:56:36

17 squares are indicating the Behavioral Risk Factor 10:56:42

18 Surveillance System Survey; is that correct? 10:56:50

19 A Yeah, the light squares. 10:56:50

20 Q The light squares. 10:56:52

21 A Yeah. 10:56:53

22 Q Okay. On the graph, where does the first square 10:56:53

23 start on the year 2000? 10:57:04

24 A Yeah, looks like that. 10:57:05

25 Q Okay. And the square after that is higher or 10:57:07

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1 lower? 10:57:13

2 A Slightly higher. 10:57:13

3 Q Slightly higher. 10:57:14

4 And then the next square? 10:57:16

5 A You know, that's all we have for that survey. 10:57:18

6 Q So is the next square higher or lower? 10:57:26

7 A Well, there are only two squares there. 10:57:29

8 Q Okay. So, then, on what do you base your opinion 10:57:35

9 that the National Behavior [sic] Risk Factor 10:57:43

10 Surveillance System finds a persistent decline in 10:57:47

11 household gun ownership when the chart in your exhibit 10:57:49

12 shows that it goes slightly up? 10:57:55

13 A Oh, yeah. Yeah. No, I -- I -- just -- just to 10:57:57

14 clarify, what I was trying to say there is, you know, 10:58:03

15 essentially there -- I -- I show you some Gallup data 10:58:09

16 that suggests that the decline may not have -- have been 10:58:14

17 steep as the General Social Survey suggests, but the 10:58:19

18 Behavioral Risk Factor survey, to the extent that 10:58:25

19 that's, you know, providing more information on what the 10:58:28

20 true level of gun ownership is, is supportive of the 10:58:34

21 lower levels that the General Social Survey offers in 10:58:41

22 this period from, you know, 2000 on. 10:58:48

23 So I was just saying that, looking at the General 10:58:50

24 Social Survey, it's -- it's telling you that things have 10:58:56

25 dropped, and the Behavioral Risk Factor survey tells 10:58:58

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1 you, yeah, that -- that drop looks like it's -- it's 10:59:04

2 real and that the outlier is the Gallup survey, not -- 10:59:06

3 not either the General Social Survey or the Behavioral 10:59:13

4 Risk Factor. 10:59:17

5 But I -- I shouldn't be taken as suggesting that 10:59:17

6 the Behavioral Risk Factor traces out the -- the 10:59:21

7 long-term decline that the General Social Survey 10:59:24

8 documents. 10:59:30

9 Q So when you say that it finds a persistent 10:59:31

10 decline, how else am I supposed to take that? 10:59:34

11 A So where -- 10:59:42

12 MR. CHANG: Objection -- 10:59:43

13 BY MR. BRADY: 10:59:44

14 Q Paragraph 20. 10:59:44

15 MR. CHANG: -- argumentative. 10:59:44

16 THE WITNESS: Yeah, so -- 10:59:47

17 BY MR. BRADY: 10:59:47

18 Q So in paragraph 20, I'll -- I'll reiterate -- 10:59:59

19 A Yeah. 10:59:59

20 Q -- what I'm looking at -- 11:00:01

21 A Yeah, so -- so -- so I see what you said. 11:00:04

22 So it should say that, for the Behavioral Risk 11:00:05

23 Factor, it supports a decline in household gun 11:00:11

24 ownership, because, you know, everybody is sort of 11:00:17

25 thinking that the survey evidence was getting us one 11:00:23

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1 figure in 1980, let's say, that was higher than what the 11:00:31
2 General Social Survey has given us today, and the -- the 11:00:36
3 Behavioral Risk Factor survey is -- is endorsing the -- 11:00:43
4 the, you know, relatively low figure that the General 11:00:47
5 Social Survey offers us. 11:00:49

6 Q And is the National Behavioral Risk Factor survey 11:00:52
7 a reliable one, in your experience? 11:01:01

8 A Yeah, it's -- it's considered one of the -- 11:01:03
9 the -- the reliable surveys. 11:01:07

10 I mean, I think all of these surveys are worthy 11:01:08
11 of consideration, and then you look to see if a -- if a 11:01:15
12 consistent picture emerges. 11:01:21

13 Here, there is some discrepancy with the Gallup 11:01:23
14 survey being an outlier, but for a variety of reasons, 11:01:27
15 I -- I tend to accept the conclusion of the other 11:01:32
16 surveys; that -- that there really has been this drop. 11:01:39

17 Q Which surveys are those? 11:01:42

18 A Well, when I say -- when I say that there really 11:01:43
19 has been a drop, if the -- if the numbers are down into 11:01:48
20 the 30s and -- low 30s, then I think everybody would 11:01:52
21 agree that there has been a drop in the prevalence of -- 11:01:58
22 of gun ownership by household. 11:02:02

23 And if you look at that, every survey that has 11:02:06
24 data after 2000 is showing, you know, gun ownership by 11:02:10
25 household levels down in the low 30s, and the only one 11:02:18

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1 that's not showing that is -- is the Gallup survey, so 11:02:24
2 that's the -- the outlier, in my view. 11:02:30

3 Q What about the Pew Research Center survey; you 11:02:32
4 say that it, too, finds a persistent decline in 11:02:42
5 household gun ownership. 11:02:45

6 Is that your opinion as well? 11:02:51

7 A Yeah, I mean, I think -- I think you're -- you're 11:02:53
8 right that the language is imprecise. I would say that 11:02:56
9 all of these surveys, other than Gallup, provide 11:03:06
10 evidence that is consistent with the long-term decline 11:03:12
11 in household gun ownership over the past several 11:03:17
12 decades. 11:03:21

13 Q And the Pew Research Center survey corroborates 11:03:21
14 that, in your opinion? 11:03:29

15 A Yeah, because they -- they back up -- you know, 11:03:30
16 it's a more recent survey, so it doesn't have the -- 11:03:37
17 the -- the longer tenure of the General Social Survey, 11:03:41
18 but they are backing up the results by saying, Our 11:03:45
19 surveys largely confirm the General Social Survey trend. 11:03:51

20 And -- and so, again, it's -- it's providing 11:03:56
21 further confirmation that one of the major survey 11:03:59
22 entities is -- is supporting this conclusion. 11:04:05

23 Q Okay. And you said that you had the most recent 11:04:12
24 data from GSS. 11:04:32

25 Is this the most recent data from the Pew 11:04:34

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1 Research Center, to your knowledge? 11:04:37

2 A You know, it was when I -- I wrote it, and I 11:04:37

3 haven't -- I haven't gone back and -- and looked 11:04:43

4 further. 11:04:44

5 Q When did you write this report? 11:04:46

6 A Oh, dear, probably -- probably the summer. 11:04:47

7 Q So you don't know whether there was a more recent 11:05:01

8 Pew Research survey on this topic? 11:05:04

9 A You know, I -- I haven't -- I haven't looked at 11:05:06

10 that since -- since I wrote the report, so I don't -- I 11:05:14

11 don't know. 11:05:14

12 MR. BRADY: Exhibit 6. 11:05:26

13 (Exhibit 6 was marked for identification 11:05:36

14 by the Court Reporter.) 11:05:37

15 BY MR. BRADY: 11:05:37

16 Q Have you seen this document before? 11:06:16

17 A I don't know if I have. 11:06:17

18 Q So you haven't seen this survey before? 11:06:32

19 A I don't think so. 11:06:34

20 Q Okay. Can you look at page 2 -- 11:06:36

21 A Okay. 11:06:40

22 Q -- the first pie chart. 11:06:41

23 A Mm-hmm. 11:06:43

24 Q You see the box coming off that pie chart that 11:06:43

25 says: The percentage of people who live in a household 11:06:48

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1 with a gun? 11:06:52

2 A Yeah. 11:06:58

3 Q What's that figure? 11:07:09

4 A So they are saying 42 percent there, and what was 11:07:10

5 I quoting? So they are saying -- yeah, so they are -- 11:07:20

6 they are giving a figure that's higher than the last 11:07:40

7 figure that they had. 11:07:42

8 Q By how much? 11:07:44

9 A You know, fairly significant jump. And -- and, 11:07:45

10 you know, it does raise a question how much of that is 11:07:52

11 real and how much of that is just sort of error bouncing 11:07:55

12 around, you know, a survey. 11:07:59

13 I think -- I think Hillary Clinton might have had 11:08:03

14 a higher percentage of predicted votes from the various 11:08:08

15 public opinion polls and then didn't work out that way, 11:08:14

16 so you can't always rely on one survey. 11:08:20

17 But I take -- I take your point that this one 11:08:23

18 is -- is higher than the last Pew survey. 11:08:26

19 Q Yeah, you relied on this survey, did you not, 11:08:30

20 Professor? In making your opinion, you relied on the 11:08:32

21 Pew Research Center survey; correct? 11:08:36

22 A Yeah, I -- I -- I said that I relied on it as 11:08:42

23 confirmatory of the best survey, which is the General 11:08:44

24 Social Survey. 11:08:48

25 Q And -- and you called the Pew Research survey 11:08:48

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1 more reliable in footnote 5 on page 8, did you not? 11:08:56

2 A Well, let's see what I said on footnote 5. It 11:09:02

3 says: While the GSS in 2016 put the percentage of 11:09:11

4 households with guns at less than 31 percent, the most 11:09:14

5 recent Gallup poll found 39 percent. There's no 11:09:19

6 consensus about why Gallup's estimates are somewhat 11:09:22

7 higher than those from the more reliable GSS and Pew 11:09:25

8 surveys, but it should be noted that the Gallup polls 11:09:30

9 are far smaller surveys based on the less reliable 11:09:33

10 telephone interviews with dramatically lower response 11:09:36

11 rates than the GSS. 11:09:40

12 Q So is it fair to say that you consider the Pew 11:09:40

13 Research Center survey reliable, perhaps not as reliable 11:09:46

14 as GSS, but reliable? 11:09:50

15 A Yeah, I mean, I -- I consider -- I consider all 11:09:51

16 of these surveys as worthy of consideration, but with 11:09:55

17 the GSS being the most reliable. It's -- it's -- it's 11:10:01

18 the most scientific, the largest sample size, and 11:10:06

19 conducted with, you know, the most sophisticated 11:10:12

20 scientific personnel. 11:10:15

21 But, you know, as I -- as my paper from 2017 11:10:18

22 shows, I -- I -- this had been available when I was 11:10:24

23 writing that, there would be a point there as well. 11:10:28

24 Q Are you saying -- I'm sorry, are you saying that 11:10:33

25 this report was not available when you were -- that the 11:10:35

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1 Pew Research Center survey that we are talking about, 11:10:40

2 Exhibit 6, was not available when you wrote your report? 11:10:42

3 A It's not available when I did this -- this figure 11:10:45

4 that we have been talking about in my paper, and so... 11:10:50

5 Q So this is an old table, the -- the figure on 11:10:57

6 page 3 of Exhibit B in your report? 11:11:01

7 MR. CHANG: Objection; vague and ambiguous. 11:11:05

8 THE WITNESS: Yeah, I mean, I just attached a 11:11:07

9 paper that I had written, and -- and so that table was, 11:11:09

10 you know, what I had done in the context of -- of 11:11:16

11 writing that paper, so this -- this wasn't available at 11:11:21

12 that time. 11:11:26

13 BY MR. BRADY: 11:11:26

14 Q So had you seen this more recent Pew Research 11:11:28

15 survey -- 11:11:34

16 A Mm-hmm. 11:11:34

17 Q -- from 2017 that shows that 9 percent increase 11:11:35

18 from the 2013 Pew Research Center survey -- 11:11:42

19 A Yeah. 11:11:42

20 Q -- that you cited in your report, would you have 11:11:48

21 included it? 11:11:50

22 A Oh, yeah, sure. 11:11:51

23 Q And would it have changed your opinion in any 11:11:52

24 way? 11:11:55

25 A You know, I probably would have said -- obviously 11:11:55

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1 the Pew number is wrong because you would not have 11:12:00
2 gotten a jump anywhere near that magnitude in -- in a 11:12:04
3 short period of time, so one of the Pew numbers had to 11:12:07
4 be wrong, either the earlier one or the later one, 11:12:09
5 and -- but since the General Social Survey is still the 11:12:16
6 best one, I would -- I would rely most heavily on that, 11:12:18
7 but think about, you know, whether, you know, there's at 11:12:22
8 least some evidence suggesting that the -- the number 11:12:27
9 might be lower than -- than we previously believed. 11:12:33
10 MR. CHANG: Could we go off the record for a 11:13:54
11 minute? 11:13:56
12 MR. BRADY: Yes. 11:13:57
13 THE VIDEOGRAPHER: Just a second. 11:13:58
14 We are now going off the record, and the time is 11:13:59
15 11:14. 11:14:02
16 (Recess taken.) 11:14:02
17 THE VIDEOGRAPHER: We are now going back on the 11:14:43
18 record, and the time is 11:15. 11:15:10
19 BY MR. BRADY: 11:15:12
20 Q So we just got done talking about the most recent 11:15:21
21 Pew Research Center survey indicating an increase in 11:15:24
22 households with a firearm being up 9 percentage points 11:15:34
23 from its previous survey of 33 percent that you cited in 11:15:39
24 your report. 11:15:45
25 And you have omitted this most recent Pew 11:15:46

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1 Research Center survey from your report; is that 11:15:58

2 correct? 11:15:59

3 MR. CHANG: Objection; misstates the facts. 11:15:59

4 MR. BRADY: Let me rephrase. 11:16:04

5 Q This 2017 Pew Research Center survey that we just 11:16:10

6 finished discussing -- 11:16:14

7 A Mm-hmm. 11:16:14

8 Q -- is not cited in your report for the purposes 11:16:16

9 of discussing the percentage of American households with 11:16:23

10 firearms; is that correct? 11:16:31

11 A Yeah, as I said, I -- I wrote this paper -- 11:16:32

12 THE VIDEOGRAPHER: Microphone. Your microphone. 11:16:41

13 THE WITNESS: Did I lose my microphone? 11:16:43

14 I wrote the paper on gun prevalence in 2017, and, 11:16:45

15 obviously, this wasn't available when I wrote that, and 11:16:50

16 so I -- I gave that as a -- the authority for my 11:16:54

17 conclusions and -- and didn't cite anything on the issue 11:17:02

18 of prevalence, other than the items that I -- I 11:17:09

19 referenced in the paper that I wrote on gun prevalence. 11:17:16

20 BY MR. BRADY: 11:17:19

21 Q So before making an opinion on the question of 11:17:20

22 the prevalence of gun ownership, you did not look into 11:17:28

23 whether there was a more recent version of the surveys 11:17:31

24 that you referred to as reliable? 11:17:38

25 A You know, as I said, I -- I used the most recent 11:17:43

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1 one of the one that I thought was the most reliable, 11:17:47
2 and -- and the overall conclusion that I reached when I 11:17:55
3 wrote my paper on this was that there had been this 11:18:00
4 decline and that the only outlier in this body of 11:18:07
5 evidence was the Gallup survey. 11:18:13

6 What you point out, which is a fair thing to 11:18:17
7 point out, is that now there's a -- another survey that 11:18:20
8 pro- -- provides a higher figure recently, but just a 11:18:29
9 few years ago, it had a much lower number, and -- and -- 11:18:32
10 and there's no chance that both of those numbers could 11:18:37
11 be correct because one is -- is much lower than the 11:18:41
12 other one. 11:18:45

13 So we don't know, on the basis of this, whether 11:18:45
14 this Pew number that you just reference is the one 11:18:49
15 that's wrong or the earlier one was too low, but they -- 11:18:54
16 they both can't be correct, and there's no reason to 11:18:59
17 necessarily trust this one over the earlier one, except 11:19:05
18 we do have the GSS, which is the single most reliable 11:19:13
19 survey, and that tells us the pattern is downward, so 11:19:17
20 probably suggests this number is upward bias, but we 11:19:23
21 will have to wait until the GSS latest survey comes out 11:19:27
22 before we can, you know, kind of draw a firm conclusion 11:19:30
23 on that. 11:19:33

24 Q And it's your testimony that you have never seen 11:19:34
25 this 2017 Pew Research Center survey in preparing your 11:19:35

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1 report; is that correct? 11:19:42

2 A No. I said I hadn't seen it in preparing the 11:19:43

3 article that I -- I wrote on gun prevalence. And as you 11:19:47

4 can tell, the -- the title of -- I mean, the date on 11:19:54

5 this was June 22nd, 2017, and my paper was in 2- -- 2017 11:19:57

6 as well many, so when I wrote that, this was not yet 11:20:05

7 out. 11:20:10

8 Q So you did consider this 2017 Pew Research Center 11:20:10

9 survey -- 11:20:16

10 A No. 11:20:16

11 Q -- afterwards? 11:20:20

12 A No, I -- I -- I didn't say that. I said, when I 11:20:21

13 wrote my paper on gun prevalence decline -- or gun 11:20:28

14 prevalence -- I concluded there was a decline -- this 11:20:36

15 paper was not out, and that's the only thing that I drew 11:20:41

16 my conclusions on in this -- in this expert report, 11:20:48

17 what -- what was written in that paper, which I appended 11:20:55

18 as my exhibit. 11:21:00

19 Q So you did not update your 2017 report on the 11:21:03

20 prevalence of firearms for the purposes of this report? 11:21:10

21 A Yeah, I did not -- the earlier one wasn't a -- a 11:21:16

22 report. It was just a paper that -- that I wrote with a 11:21:24

23 research assistant of mine, and I -- I, you know, 11:21:31

24 haven't updated it since I finished that report in 2017. 11:21:36

25 Q And since then, have you seen this Pew Research 11:21:43

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1 Center survey from 2017 with the 42 percent -- 11:21:49

2 A You know -- 11:21:49

3 Q -- gun ownership number? 11:21:54

4 A -- I did not see the 42 percent number. I think 11:21:55

5 I have seen this -- this survey, but I was looking at it 11:22:03

6 for other purposes and hadn't noticed the 42 percent 11:22:07

7 number. I -- I obviously would have put it in, as I put 11:22:12

8 in the Gallup numbers in my survey, had -- had it been 11:22:16

9 there. 11:22:21

10 And, in a sense, it -- it doesn't change what GSS 11:22:26

11 found, which I -- I state as still the most reliable. 11:22:31

12 And it just makes me convinced, of course, that 11:22:36

13 something is wrong in Pew. We don't know whether it was 11:22:43

14 wrong, the last survey or in this survey, because one of 11:22:46

15 those Pew surveys is -- is clearly wrong. 11:22:51

16 Q So, then, are you taking back your opinion that 11:22:53

17 the Pew Research Center survey is reliable? 11:22:57

18 A You know, I -- I think all of these surveys are 11:23:02

19 worthy of consideration, but if you get, you know, a 11:23:06

20 real outlier, it could -- could just be bad luck. 11:23:13

21 I mean, if I take a random sample of Americans 11:23:17

22 and I happen to randomly draw, you know, a thousand NRA 11:23:22

23 members in a 1200-member survey, then you would get 11:23:27

24 wacky results. That doesn't mean the survey is, you 11:23:31

25 know, intentionally flawed, but random surveys can 11:23:40

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1 generate unrepresentative conclusions, and, you know, 11:23:43
2 clearly, no one thinks that -- over the short period of 11:23:51
3 time between these two Pew Research Center surveys, that 11:23:57
4 there's a jump in household gun ownership of that 11:24:03
5 magnitude, so -- so one of them has to be wrong. I'm 11:24:06
6 not sure, at this moment, which one is wrong. 11:24:11

7 Q Has there never been a nine-point jump in the GSS 11:24:13
8 survey data over a four-year period? 11:24:18

9 A Well, there -- there wouldn't -- there -- there 11:24:23
10 might be in a survey, as I said, but that's why the 11:24:27
11 General Social Survey is so valuable, because you don't 11:24:30
12 really care too much about individual jumps. You want 11:24:34
13 to see trends. 11:24:38

14 And the fact that, you know, in Oklahoma -- the 11:24:41
15 murder rate in Oklahoma jumped in 1995, hugely because 11:24:48
16 the Oklahoma City bombing, wasn't telling you that 11:24:53
17 Oklahoma was becoming a more dangerous place at that 11:24:59
18 moment. It was just, there was a random event that 11:25:02
19 occurred that made the numbers bounce very sharply one 11:25:05
20 time, and then, you know, the next year, the murder rate 11:25:10
21 in Oklahoma was back to where it had been the year 11:25:13
22 before. 11:25:16

23 So you can't just look at one number and 11:25:18
24 disregard everything else that we know, but you -- you 11:25:21
25 want to look at all the numbers. 11:25:25

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1 Q Okay. So just so I have your testimony on this 11:25:26
2 accurately, you have seen this 2017 Pew Research Center 11:25:31
3 survey, but you did not see the 42 percent household gun 11:25:40
4 ownership number? 11:25:46
5 A Yeah, I -- I actually don't know whether I saw 11:25:49
6 the survey itself or just saw some reports of -- of what 11:25:55
7 the Pew survey had found on a couple of things, and I 11:26:03
8 didn't see any report on what the household prevalence 11:26:09
9 was because, as I said, this wasn't available when I was 11:26:14
10 writing my paper on household prevalence. 11:26:23
11 THE REPORTER: Did you say "wasn't available"? 11:26:28
12 THE WITNESS: Was not. Thank you. 11:26:30
13 BY MR. BRADY: 11:26:32
14 Q Okay. So you cite to the Gallup's estimates in 11:28:13
15 footnote 5 on page 8 of your report -- 11:28:30
16 A Mm-hmm. 11:28:30
17 Q -- and you say that the most recent Gallup survey 11:28:35
18 found that 39 percent of American adults live in a 11:28:37
19 household that contains a gun; is that correct? 11:28:42
20 A Remind me what page we're on now? 11:28:44
21 Q Page 8 -- 11:28:47
22 A Yeah. 11:28:47
23 Q -- footnote 5. 11:28:48
24 A Okay. 11:28:49
25 Q So it says: The most recent Gallup survey found 11:28:49

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1 that 39 percent of American adults live in a household 11:28:55
2 that contains a gun; is that -- did I accurately quote 11:28:57
3 you? 11:29:00

4 A Yes. 11:29:01

5 Q Have you checked to see if there are any more 11:29:01
6 recent Gallup surveys on that subject? 11:29:05

7 A I haven't checked -- I haven't checked -- I 11:29:07
8 haven't checked anything on percentages of household 11:29:15
9 ownership since I finished my paper. 11:29:21

10 Q In 2017? 11:29:24

11 A Yeah. 11:29:25

12 Q So you are opining on trends in the ownership of 11:29:29
13 firearms, and you are not looking at the data that 11:29:36
14 reflects the most recent trends? 11:29:43

15 MR. CHANG: Objection -- 11:29:46

16 THE WITNESS: Well -- 11:29:46

17 MR. CHANG: -- lacks foundation. 11:29:48

18 THE WITNESS: Yeah, I mean, I -- I mention that 11:29:48
19 the most reliable data is GSS. It has the longest 11:29:55
20 duration of data, using the most reliable methodologies, 11:30:00
21 and, therefore, that's the trend that is most valuable 11:30:13
22 in assessing what the long-term trend of gun ownership 11:30:23
23 has been. 11:30:28

24 As I mention, the -- the -- the GSS comes out 11:30:33
25 every two years, so we don't have the latest word from 11:30:37

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1 GSS on this, but let's say that the GSS said that it 11:30:42
2 was -- rather than 31 percent, which it said last time, 11:30:54
3 it was 34 now. What would I say? I would say the 11:30:57
4 long-term trend in gun ownership is down, but in the 11:31:02
5 latest one, there was a bump up, and we don't know 11:31:06
6 whether that's a -- a blip, a, you know, random 11:31:08
7 aberration, or a change in trend, but since you can't 11:31:14
8 tell from one event if, you know, a long-term decline is 11:31:20
9 being reversed or is -- is simply being temporarily, you 11:31:27
10 know, misrepresented by the data or -- or starting off a 11:31:36
11 change, you -- you simply have no way of knowing from 11:31:38
12 one observation. 11:31:42

13 So since -- since we don't have any GSS evidence 11:31:43
14 that suggests a change, you know, there's -- there's no 11:31:49
15 basis for altering that conclusion. 11:31:57

16 BY MR. BRADY: 11:31:59

17 Q Even if the Pew -- the most recent Pew Research 11:32:00
18 Center survey disagrees and even if the most recent 11:32:04
19 Gallup poll survey disagrees? 11:32:08

20 A Well, as I said -- 11:32:10

21 MR. CHANG: Objection; calls for speculation and 11:32:13
22 misstates -- or lacks foundation, I think. 11:32:19

23 THE WITNESS: I mean, if we didn't know that 11:32:23
24 there was a problem with Pew now, based on the document 11:32:25
25 that you just showed me, then it -- it might change some 11:32:29

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1 thinking, but -- but you have illustrated, I think 11:32:39
2 rather well, something's wrong with the Pew data, and 11:32:42
3 it's either this one or it's the earlier one, and we 11:32:46
4 don't really know which of those is true. 11:32:49
5 MR. BRADY: Exhibit 7. 11:33:05
6 (Exhibit 7 was marked for identification 11:33:06
7 by the Court Reporter.) 11:33:06
8 BY MR. BRADY: 11:33:06
9 Q Do you recognize what this is? 11:33:12
10 A Yeah, it's the -- the Gallup survey. 11:33:13
11 Q Okay. Can you turn to the fourth page. 11:33:19
12 A Okay. 11:33:25
13 Q Midway down the page, the question is: Do you 11:33:25
14 have a gun in your home? 11:33:32
15 2018, October 1st through the 10th, do you see 11:33:34
16 the percentage that says: Yes, I do? 11:33:40
17 A Yes. 11:33:45
18 Q And what percentage is that? 11:33:45
19 A 43. 11:33:46
20 Q If you look at 2017, October 5th through 11th, do 11:33:48
21 you see the percentage that says: Yes, I do have a gun 11:33:56
22 in my home? 11:33:58
23 A Yeah -- 11:33:59
24 Q What -- 11:33:59
25 A -- I do. 11:34:01

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1 Q -- what percentage is that? 11:34:01

2 A 42. 11:34:02

3 Q And then the 2016, October 5th through 9th, is 11:34:03

4 the 39 percent that you were referring to; is that 11:34:10

5 correct, in your report? 11:34:12

6 A Yes. 11:34:13

7 Q Okay. So according to Gallup, the level of home 11:34:17

8 gun ownership is increasing; is that correct? 11:34:27

9 MR. CHANG: Objection; vague as to the time 11:34:29

10 frame. 11:34:36

11 THE WITNESS: I yeah, I mean, according to 11:34:36

12 Gallup -- look at the first page of Gallup. Nobody 11:34:43

13 would say that that's a sign that a long-term trend of 11:34:49

14 gun ownership is increasing. I would say it's -- it's 11:34:54

15 been flat since 2000 and declined before that. 11:34:59

16 BY MR. BRADY: 11:35:07

17 Q At what period before that? 11:35:07

18 A You know, from '60s through '80s or so, it was 11:35:08

19 down. They are showing a jump up before that, and then 11:35:19

20 I already referenced the disaster for the gun industry 11:35:28

21 when crime fell very sharply in the 1990s. 11:35:33

22 Q But as far as a trend in recent decades, as I 11:35:51

23 believe you state in your report -- 11:35:59

24 A Mm-hmm. 11:35:59

25 Q -- does Gallup show a trend going up or down in 11:36:02

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1 the last decade? 11:36:09

2 A Well, as I said, Gallup was the outlier. They 11:36:11

3 were flat since, you know, about 2000, but down from 11:36:16

4 decades before that, so they -- they sort of convert -- 11:36:23

5 confirm the long-term trend, and, you know, the -- the 11:36:27

6 question is: Did Gallup understate the -- the long-term 11:36:34

7 decline, or, you know, is -- is there something that the 11:36:42

8 long-term decline stopped in 2000 and -- or in sort of a 11:36:50

9 steady state since then, or maybe even some upward tick 11:36:55

10 in the last couple of years, and that's a little 11:37:00

11 unclear. 11:37:02

12 Q And the most recent Gallup number of 43 percent 11:37:03

13 home gun ownership is almost identical to the most 11:37:20

14 recent Pew Research Center survey of 42 percent; is that 11:37:29

15 correct? 11:37:34

16 A It is. 11:37:34

17 Q And neither of those figures was included in your 11:37:35

18 report; is that correct? 11:37:41

19 A Yes; although, I did include the 45 percent 11:37:41

20 figure from Gallup in 2011, so, I mean, using your 11:37:50

21 suggestion, someone might argue -- I wouldn't advise 11:37:57

22 it -- that the trend is down in the Gallup numbers in 11:38:02

23 the last couple of years. 11:38:06

24 So, essentially, I know you would like to be able 11:38:09

25 to draw a conclusion of a trend based on one year, but 11:38:16

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1 that really can't be done. 11:38:24

2 Q To be clear, I'm not suggesting anything. I'm 11:38:25

3 asking you about the opinions you have written about in 11:38:28

4 your report, and I'm asking how you came to the 11:38:31

5 conclusions about home gun ownership being less -- 11:38:34

6 having a downward trend. 11:38:42

7 And it sounds to me that you have relied on three 11:38:47

8 surveys that at least two of which, as you have just 11:38:52

9 noted, go up and down by various percentage points over 11:38:59

10 the years and show no consistent trend, and so how is 11:39:03

11 any -- and all three of them tend to disagree with each 11:39:08

12 other at certain points, so how can you draw any 11:39:13

13 opinions from these three surveys about home gun 11:39:18

14 ownership? 11:39:22

15 A Well, the -- the data is sometimes in conflict, 11:39:26

16 and choices have to be made, so one has to, you know, 11:39:35

17 assess the overall validity and value of the different 11:39:39

18 surveys. 11:39:46

19 You know, clearly, you just put in front of me a 11:39:48

20 document which does confirm there has been a long-term 11:39:51

21 downward trend in gun ownership. 11:39:55

22 Q How so? 11:39:57

23 A Because -- just look at your first page of the 11:39:58

24 document you gave me. You fit a linear line through 11:40:01

25 that, and it's long-term downward trend. 11:40:07

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1 Q A significant downward trend? 11:40:11

2 A You know, I -- I -- I can't -- I can't determine 11:40:14

3 that based on looking at this, but -- 11:40:20

4 Q I mean, it looks to me the first number on the 11:40:22

5 table is 49; correct? 11:40:25

6 A Yeah. 11:40:26

7 Q The -- the initial year? 11:40:28

8 A Yeah. 11:40:29

9 Q And that is in 1962, or somewhere thereabouts? 11:40:29

10 A Yeah. 11:40:33

11 Q And so what are we 50 years later -- 2018 -- 43? 11:40:33

12 It's a 6 percent drop? 11:40:40

13 A Well -- 11:40:44

14 MR. CHANG: Objection; misstates the -- misstates 11:40:46

15 the facts. 11:40:51

16 BY MR. BRADY: 11:40:52

17 Q Does it misstate the facts, Professor? 11:40:52

18 A Yes, it does. If you take, you know, the -- the 11:40:54

19 average over the first half of that period and compare 11:40:58

20 it to the average of the second half of the period, 11:41:03

21 clearly, the first half is going to be higher, so there 11:41:07

22 is a long-term downward trend. 11:41:11

23 That's not what I relied on, but that's the 11:41:15

24 evidence that you seem to be interested in validating -- 11:41:17

25 or at least your expert seems interested in validating. 11:41:25

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1 Q If it -- if it supports your opinion, why 11:41:28
2 wouldn't you include it in your report? 11:41:33

3 A I -- I included all the evidence in the -- in the 11:41:34
4 paper that I wrote, and I drew the conclusion that the 11:41:47
5 most reliable data is the General Social Survey. It 11:41:50
6 does show a long-term downward trend. That's supported, 11:41:54
7 not with the overwhelming evidence, but in broad contour 11:42:01
8 by the Gallup survey. 11:42:07

9 And, as I indicated, the only real question is: 11:42:09
10 Has the decline continued so that it's -- you know, the 11:42:14
11 ownership levels are down in the low 30s, or has the 11:42:21
12 decline leveled off so that the ownership levels are 11:42:26
13 around 40? And -- and that's what we don't really know. 11:42:30

14 If -- if -- if you don't accept that the General 11:42:37
15 Social Survey is the best evidence on this, then you 11:42:43
16 would have doubt about that. And if you think the 11:42:45
17 General Social Survey is the best, we have already -- 11:42:49
18 you know, you -- you highlighted the obvious error in 11:42:52
19 the Pew numbers -- in one of them. We are not sure 11:42:59
20 which. So it's one of the tricky elements of evaluating 11:43:02
21 survey data. 11:43:12

22 Q And why do you think the GSS is the best out of 11:43:14
23 these three, the most reliable? 11:43:17

24 A Oh, it's widely considered by social scientists 11:43:19
25 to be the gold standard of survey research. 11:43:23

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1 Q Why is that? 11:43:26

2 A It's conducted by the National Opinion Research 11:43:27

3 Center at the University of Chicago. Has the most 11:43:31

4 professional staff. Has the most scientific focus on 11:43:34

5 the work. Has the -- the best protocols for survey 11:43:38

6 methodology. Has the, you know, consistently highest, 11:43:45

7 by wildly large levels, of response rate, which is a 11:43:50

8 huge issue. If you look at the response rates in 11:43:55

9 Gallup, these -- these response rates are incredibly low 11:43:59

10 and getting harder to -- to do all the time. These 11:44:03

11 people don't answer their phones anymore. 11:44:07

12 So, yeah, I mean, there's no question it's the 11:44:10

13 most reliable. We still have issues of: Is it perfect? 11:44:12

14 No, but it is clearly the best. 11:44:17

15 Q GSS conducts its surveys in person; is that 11:44:21

16 correct? 11:44:27

17 A It does, and it guarantees total anonymity to the 11:44:27

18 survey respondents. 11:44:34

19 Q In the case of firearm ownership, you don't think 11:44:36

20 that there's a possibility that people might feel 11:44:42

21 awkward answering a survey to a person face-to-face in 11:44:50

22 their home about whether they have a firearm there? 11:44:56

23 A Some people might. 11:44:59

24 Q So while GSS may be the gold standard, generally, 11:45:10

25 for surveys, could its practice of doing in-person 11:45:16

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1 surveys result in inaccurate results in certain 11:45:26
2 situations that would cause the respondent pause in 11:45:33
3 answering truthfully? 11:45:39

4 MR. CHANG: Objection; calls for speculation. 11:45:41

5 THE WITNESS: Yeah. Yeah, I mean, it's not a big 11:45:44
6 concern because, of course, we have decades of general 11:45:46
7 social surveys. 11:45:52

8 So the point that you are making -- and your 11:45:54
9 experts have tried to make -- would only make sense if, 11:45:57
10 suddenly, people have become concerned about stating 11:45:59
11 facts that they were happy to state for 30 or 40 years. 11:46:06
12 And none of your experts gave the slightest indication 11:46:11
13 of why, suddenly, people are afraid to talk about 11:46:14
14 whether they have a gun or not. 11:46:20

15 BY MR. BRADY: 11:46:23

16 Q Well, 30 or 40 years ago, how much gun control 11:46:24
17 was being proposed? 11:46:27

18 MR. CHANG: Objection; lacks foundation. 11:46:27

19 THE WITNESS: Yeah, I mean, there were -- there 11:46:33
20 were proposals for banning all handguns 30 or 40 years 11:46:36
21 ago, so there was -- gun control has been a major 11:46:40
22 concern in this country. 1968 was one of the most 11:46:45
23 important federal laws passed, so it's not been a new 11:46:49
24 topic. 11:46:56

25 I mean, the only point that I think you might be 11:46:57

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1 able to make is, yeah, the criminals may not want to 11:47:00

2 mention if they have a gun, but that's been, you know, 11:47:07

3 presumably true for decades, and we see the downward 11:47:12

4 trend. 11:47:16

5 BY MR. BRADY: 11:47:18

6 Q So getting back to your initial statement in this 11:47:22

7 deposition about the placement of surveys on your 11:47:30

8 hierarchy of methodology in determining the causal 11:47:36

9 impact of laws and policies, you are, indeed, using 11:47:43

10 surveys to determine the causal impact of law and 11:47:46

11 policies here. 11:47:52

12 Is that fair to say? 11:47:53

13 A No. I'm not making much of the impact of any law 11:47:54

14 or policy in -- in this statement. I'm -- I'm just 11:48:01

15 trying to see what we can say about overall levels of 11:48:06

16 gun ownership, and, you know, where are they headed. 11:48:11

17 Q So you are observing; you are not saying that's a 11:48:15

18 result of anything. 11:48:19

19 Is that fair to say? 11:48:21

20 A Yeah. I mean, I -- I did try to see what we 11:48:22

21 could say about, you know, factors such as interest in 11:48:27

22 guns, and, you know, I put in data on circulation of gun 11:48:36

23 magazines, and you can see those declining, and -- but, 11:48:41

24 again -- hunting, and so on and so forth, but I 11:48:46

25 wasn't -- I wasn't trying to tie those to any particular 11:48:51

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1 law or policy. I was just trying to say: What can we 11:48:54
2 say about the facts of gun ownership in the 11:48:58
3 United States. 11:49:03
4 Q The Donohue & Rabbani paper that you cite to in 11:49:03
5 paragraph 19 -- 11:49:47
6 A Yeah. 11:49:51
7 Q -- has that been published? 11:49:52
8 A No. 11:49:53
9 Q Has it been peer-reviewed? 11:49:53
10 A No. No. 11:49:55
11 Q Is it a common practice in your work to rely on 11:49:57
12 surveys for formulating opinions about social trends? 11:50:15
13 A Is it a common practice for people in my 11:50:27
14 business? Is that what you said? 11:50:32
15 Q Yes, in your field. 11:50:33
16 A Yeah, I mean, if -- if surveys are the only data 11:50:34
17 you have on a certain thing, then you -- you're sort of 11:50:41
18 forced to rely on that. And, you know, obviously if you 11:50:47
19 are interested in knowing what sort of gun prevalence 11:50:55
20 there is, as I said, you can look at proxies like 11:51:01
21 firearm suicide rates, gun accident rates, things like 11:51:07
22 sales of gun magazines, but why not look at the survey 11:51:12
23 data as well, especially if you have a gold standard 11:51:17
24 survey instrument like the GSS. 11:51:22
25 And with -- with one exception, everything other 11:51:28

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1 than Gallup sort of supports the broad outlines of what 11:51:31
2 the General Social Survey has found. 11:51:38

3 Q What about the Pew Research Center survey we just 11:51:45
4 talked about -- 11:51:48

5 A Yeah, that's the -- that's the one exception. 11:51:49

6 Q And Gallup? 11:51:51

7 A Yeah. I said, with -- with one exception, 11:51:52
8 everything that I said in my report and in my paper -- 11:51:57
9 that all of the evidence, other than Gallup, confirms 11:52:03
10 both the downward trend and the, you know, modest level 11:52:08
11 of current ownership. And -- and you are coming back 11:52:12
12 and saying, Yes, you said that there was the Gallup 11:52:15
13 exception, and now I'm going to give you one data point 11:52:21
14 from Pew, which may encourage you to think: Maybe we 11:52:24
15 should just throw Pew out until we have more -- other 11:52:30
16 data, because we don't know at this point whether the 11:52:33
17 one data point you put before me is the right one, or 11:52:38
18 the last Pew data point was the right one, but we got 11:52:41
19 some weird bounce in Pew, and we are not sure whether 11:52:45
20 this is the right one and that's sort of supporting the 11:52:50
21 Gallup view, or whether the last Pew one was the right 11:52:56
22 one and that's supporting the GSS view. 11:52:58

23 Q Do I hear what you are saying that -- correctly, 11:53:03
24 that survey data would not be your preference -- your 11:53:14
25 preferred data to evaluate trends? 11:53:23

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1 A You know, it's -- it's hard -- it's hard to say. 11:53:28
2 There's some things where you really feel we are not 11:53:38
3 going to get a better estimate on this question for 11:53:42
4 anything other than survey data, and then there's some 11:53:49
5 times when you say, you know, the nature of the inquiry, 11:53:52
6 we are never going to get reliable information on that, 11:53:56
7 so the survey data is going to be completely worthless. 11:53:59
8 I do think you have to be cautious about all 11:54:05
9 data, and survey data maybe even more than 11:54:08
10 administrative data, but, of course, we know even things 11:54:11
11 like crime data can -- can be problematic at times. 11:54:14
12 Q But you feel comfortable relying on survey data 11:54:18
13 to form your opinion that gun ownership is on the 11:54:28
14 decline? 11:54:33
15 A Yeah, as buttressed by the -- the other evidence 11:54:33
16 that I included in my paper on gun prevalence and 11:54:40
17 trends. 11:54:47
18 MR. BRADY: Exhibit 8. 11:55:13
19 (Exhibit 8 was marked for identification 11:55:14
20 by the Court Reporter.) 11:55:16
21 THE WITNESS: Thank you. 11:55:16
22 BY MR. BRADY: 11:55:17
23 Q Take a look at the cover page. 11:55:17
24 Do you recognize what this document is? 11:55:19
25 A Yes. 11:55:21

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1 Q Were you deposed in the matter of Flanagan v 11:55:23
2 Becerra? 11:55:27
3 A I was. 11:55:27
4 Q Do you remember the attorney who deposed you? 11:55:28
5 A It was some good-looking guy. That's all I 11:55:35
6 remember. 11:55:43
7 Q We can stipulate to that. 11:55:43
8 Will you turn to -- 11:55:51
9 A Yeah, the lawyers here are really good-looking, 11:55:53
10 and the Court Reporter. 11:55:56
11 Q If we can turn to page 3, please, Professor. 11:55:58
12 A Okay. The expert witness not so much, but... 11:56:03
13 Okay. So which -- 11:56:09
14 Q And it's -- actually says "170" at the -- the top 11:56:11
15 right corner -- 11:56:13
16 A Yeah. 11:56:13
17 Q -- 1-7-0. 11:56:14
18 A Got it. 11:56:15
19 Q Look at the last line. 11:56:15
20 A Yeah. 11:56:18
21 Q Can you read for me your answer? 11:56:18
22 A Yeah. 11:56:24
23 Q Can you read it out loud, please? 11:56:25
24 A [Reading]: So you have to remember, I'm an 11:56:27
25 economist, which means, almost by trade, I don't believe 11:56:31

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1	what people say in public opinion surveys.	11:56:34
2	Q Do you still not believe what people say in	11:56:36
3	public opinion surveys?	11:56:41
4	A Well, I said I don't believe public opinion	11:56:42
5	surveys about what police officers believe.	11:56:46
6	Q Well, that was your more qualified statement	11:56:49
7	after that.	11:56:51
8	A Yeah.	11:56:52
9	Q But prior to that, you said: As an economist --	11:56:52
10	A Yeah.	11:56:56
11	Q -- almost by trade, I don't believe what people	11:56:56
12	say in public opinion surveys.	11:57:00
13	Has that changed since your -- since your	11:57:03
14	testimony in Flanagan?	11:57:05
15	A No, and I would just qualify it in the way that	11:57:07
16	I -- I did when we were speaking earlier.	11:57:12
17	I -- I am very cautious about public opinion	11:57:14
18	survey data, and -- and I think it's -- it's wise to --	11:57:24
19	to be cautious of public opinion survey data, and	11:57:32
20	economists are, obviously, much more concerned about	11:57:37
21	that than, you know, sociologists would be, and so even	11:57:40
22	if you look at, you know, the abstract of the paper, it	11:57:47
23	said that -- that I wrote on gun prevalence says: We	11:57:55
24	explore trends in a variety of measures of gun	11:57:58
25	prevalence, including direct surveys, proxies -- such as	11:58:02

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1 what I mentioned earlier about, you know, accidental gun 11:58:04
2 deaths or -- or suicides by gun -- and economic 11:58:08
3 indicators. 11:58:13

4 So whenever I can, I'm trying to look to other 11:58:15
5 sorts of evidence to -- to buttress, you know, the 11:58:20
6 conclusion. 11:58:25

7 But in -- in this case, the, you know, survey 11:58:28
8 data at least had the vantage of having a long-term 11:58:33
9 pattern established by the -- what I consider to be the 11:58:42
10 best, you know, of the survey instruments. 11:58:46

11 And, you know, except for this -- this Pew 11:58:51
12 document, everything other than Gallup was sort of 11:58:54
13 telling me, yeah, you are on the right track here. 11:58:59

14 Now you have complicated things with the Pew 11:59:01
15 document, but, again, because it's -- it sort of 11:59:05
16 undercuts the earlier Pew document, we are not sure 11:59:12
17 which of those two is -- is reliable. 11:59:16

18 Q All of these surveys could be wrong; correct? 11:59:22

19 A Yeah, that's -- that's true. The -- the surveys 11:59:24
20 could be wrong. But they're -- they're at least -- 11:59:29
21 they're at least, if they are well done enough, giving 11:59:35
22 you evidence. It may not be powerful and potent 11:59:41
23 evidence, depending on what -- what the particular 11:59:46
24 inquiry is. 11:59:49

25 Q Let's change topics somewhat. 11:59:51

1	A	Okay.	12:00:17
2	Q	Page 9 of your report, paragraph 5 --	12:00:17
3	A	Yeah.	12:00:21
4	Q	I'm sorry, paragraph 25 --	12:00:22
5	A	Yeah.	12:00:24
6	Q	-- you state, quote: While the precise number of	12:00:24
7		American households that own assault weapons nationally	12:00:28
8		is uncertain, it is clear that most gun-owning	12:00:31
9		households do not possess these types of weapons.	12:00:36
10		On what do you base that statement?	12:00:39
11	A	Well, just because we are getting estimates of --	12:00:41
12		you know, let's -- let's say it's 30 percent of American	12:00:51
13		households, the -- you know, I've never seen any number	12:00:59
14		suggesting assault weapons could -- could even be half	12:01:07
15		of that, and -- and so, therefore, it's clear that most	12:01:16
16		gun-owning households do not possess them. Exactly how	12:01:23
17		many do is -- is a little less certain.	12:01:27
18	Q	Going to paragraph 16, you state: This minority	12:01:29
19		status of assault-weapon ownership by household reflects	12:01:39
20		the judgment of most Americans, that assault weapons are	12:01:45
21		not important to their self-defense.	12:01:46
22	A	Yeah.	12:01:48
23	MR. CHANG:	To -- to be clear for the record,	12:01:49
24		it's paragraph 26.	12:01:51
25	MR. BRADY:	Correct. Yeah.	12:01:51

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1 MR. CHANG: And is there a question? 12:01:56

2 THE WITNESS: Okay. 12:01:58

3 MR. BRADY: I'm trying. 12:02:00

4 MR. CHANG: Okay. 12:02:01

5 BY MR. BRADY: 12:02:01

6 Q On what do you base your opinion that because a 12:02:02

7 minority of gun owners own an assault weapon, they -- 12:02:11

8 that is because they have made the decision that those 12:02:16

9 guns are not important for self-defense? 12:02:19

10 A Well, since, you know, in most of the country, 12:02:22

11 you can get an assault weapon, as many of our mass 12:02:34

12 shooters have shown, one presumes if they thought it was 12:02:37

13 important to their self-defense, they -- they would just 12:02:40

14 go out and buy one. 12:02:42

15 Q Do you know what the average price point is on a 12:02:46

16 rifle that meets the definition of an assault weapon? 12:02:49

17 A Yeah, it -- it's high, but, I mean -- 12:02:51

18 Q So you are an economist; right? If you raise the 12:02:55

19 bar to entry, raise the cost, you are going to lower 12:02:58

20 participation, generally; correct? 12:03:01

21 A That's right. 12:03:02

22 Q So that could -- the cost of such a rifle could 12:03:03

23 influence the level of ownership; correct? 12:03:11

24 A Yeah, the cost will probably influence the level 12:03:14

25 of ownership. 12:03:21

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1 Q And there are several states that prohibit the 12:03:21
2 sale of such rifles; correct? 12:03:27

3 A Yeah, there -- there's -- there are limited 12:03:29
4 number, yeah. 12:03:35

5 Q Couldn't that impact the percentage of gun owners 12:03:35
6 who own such firearms? 12:03:40

7 A Yeah, in those states, but no -- no -- no state, 12:03:42
8 even the most, you know, avidly pro assault weapon, 12:03:46
9 deviates from this broad conclusion. 12:03:53

10 Q Well, the conclusion I'm focusing in on is not 12:03:57
11 whether it's a minority of gun owners. I'm asking how 12:04:00
12 you know that the reason it's a minority is because 12:04:05
13 those people have made the decision that those guns are 12:04:09
14 not important for their self-defense? 12:04:12

15 A Well, since most people don't have guns for 12:04:16
16 self-defense, we know that most people don't think guns 12:04:22
17 are necessary for their self-defense, because guns are 12:04:26
18 cheap. You don't have to buy an assault weapon to get a 12:04:30
19 gun. So since most people don't think guns are 12:04:35
20 important for their self-defense and most people who 12:04:38
21 want guns don't have assault weapons, I don't think I'm 12:04:43
22 out on a limb here saying that most people think that 12:04:47
23 assault weapons are not important to their self-defense. 12:04:53

24 Q Well, we have indicated price point could affect 12:04:55
25 that; right? 12:04:59

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1 A Right, but you're -- you're envisioning a world 12:05:00
2 where somebody said, "I -- I would be safer if I had a 12:05:04
3 gun, and I'd really like an assault weapon. All I can 12:05:10
4 afford is a Glock, but Glock is such a worthless piece 12:05:14
5 of garbage. I'm not going to buy the Glock because I 12:05:20
6 really want the assault weapon." I don't believe that's 12:05:25
7 true. 12:05:27

8 Q Well, that's your characterization of what I'm 12:05:27
9 saying, but it could be also that the person isn't 12:05:32
10 saying a Glock is a piece of junk, but they would prefer 12:05:45
11 to have a rifle, perhaps in addition to a handgun, and 12:05:49
12 they have -- 12:05:54

13 A But most people -- 12:05:54

14 Q -- made the decision not to because of price? 12:05:56

15 A Most people -- most people -- most people in 12:05:58
16 American could afford a gun. Guns are cheap. Buy a 12:06:02
17 secondhand gun. You can steal a gun very easily. 12:06:09
18 It's -- hundreds of thousands are stolen every year. 12:06:14
19 And most people feel: I don't need a gun. Not going to 12:06:17
20 help me. May -- may make my life a lot worse. 12:06:22

21 Q That's most people, but we are talking about most 12:06:24
22 gun owners and that you are attributing their motives to 12:06:27
23 not purchasing these rifles. 12:06:30

24 THE VIDEOGRAPHER: 30 seconds. 12:06:35

25 MR. BRADY: Okay. I think we should take a break 12:06:36

1 then. 12:06:38

2 THE WITNESS: Okay. 12:06:38

3 THE VIDEOGRAPHER: This now marks the end of disc 12:06:38

4 labeled No. 1 of the deposition of John J. Donohue. 12:06:41

5 We are now going off the record, and the time is 12:06:45

6 12:06. 12:06:47

7 (Recess taken.) 12:06:48

8 THE VIDEOGRAPHER: This now marks the beginning 12:17:52

9 of disc labeled No. 2 of the video deposition of 12:18:06

10 John J. Donohue. 12:18:11

11 We are now going back on the record, and the time 12:18:13

12 is 12:18. 12:18:15

13 BY MR. BRADY: 12:18:16

14 Q Okay. So we just took a break to switch 12:18:17

15 videotapes, and now -- prior to that, we were talking 12:18:20

16 about your opinion on page 9 of your report in 12:18:24

17 paragraph 26 about the -- the reason that assault-weapon 12:18:29

18 ownership is a minority of gun owners and that it's 12:18:35

19 because they have made the determination that assault 12:18:40

20 weapons are not important to their self-defense. 12:18:43

21 And I asked you if costs could be -- could impact 12:18:48

22 the number of gun owners, and your answer was what? 12:18:52

23 A Yes. I mean, it -- it's true that cost plays a 12:18:57

24 role, and we do have the recent case of the Vermont 12:19:03

25 school kid who had a gun and was planning on a school 12:19:07

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1 shooting, but he was saying, "I wish I could get an 12:19:11
2 AR-15." He didn't have enough money for it. So -- so 12:19:14
3 we know some people are -- are priced out. 12:19:17

4 But it's -- since almost no one really believes 12:19:19
5 that assault weapons are important for self-defense, 12:19:26
6 usually the people who are priced out are the people who 12:19:33
7 want to do a mass killing, which is one of the reasons 12:19:35
8 why we have assault weapons bans, because we are happy 12:19:37
9 when we price out the -- the mass killers, especially 12:19:41
10 the kid mass killers who are very price sensitive. 12:19:44

11 Q When you say no one believes that assault weapons 12:19:47
12 are important for self-defense, are you saying there is 12:19:51
13 not an individual who has that opinion; that they are 12:19:56
14 important? 12:19:59

15 A Yeah, and so you have to be careful. Obviously 12:19:59
16 if you are in the military, they can be important to 12:20:03
17 your -- both your self-defense and your offense. 12:20:07

18 But the -- the people I talk to who say that they 12:20:13
19 feel they need an assault weapon for self-defense are 12:20:17
20 not very persuasive to me. I can't tell whether they 12:20:22
21 believe that or whether they are just saying that for 12:20:26
22 whatever reason. 12:20:31

23 Q And that's what you are basing your opinion on, 12:20:31
24 that nobody thinks that assault weapons are important 12:20:33
25 for self-defense? 12:20:37

1 A Well, so few people would ever even assert that 12:20:38
2 they thought assault weapons are important for 12:20:42
3 self-defense; that the statement is fine as it is. The 12:20:44
4 few that do say it's important for self-defense, I can't 12:20:47
5 tell whether they -- they really believe that or they 12:20:51
6 are just saying that. 12:20:54

7 Q On what do you base your opinion that so few 12:20:55
8 people would have that opinion? 12:20:57

9 A Just, you know, you -- you work in my line of 12:20:58
10 work for a long time and you speak to all sorts of gun 12:21:05
11 people, and very, very few of them will say that assault 12:21:09
12 weapons are important to their self-defense. 12:21:17

13 Q Have you looked at any data on that? 12:21:19

14 A I haven't seen any data. I would be happy to 12:21:21
15 look at it, but I would be stunned if a significant 12:21:25
16 number of gun owners truthfully and knowledgeably 12:21:34
17 believed that assault weapons were important to their 12:21:40
18 self-defense. 12:21:43

19 Q We will be getting into this later, because it's 12:21:43
20 not in front of you, but you did review Plaintiffs' 12:21:47
21 expert William English's report in this matter, did you 12:21:51
22 not? 12:21:56

23 MR. CHANG: Objection; vague. 12:21:57

24 BY MR. BRADY: 12:22:02

25 Q Did you read Professor English's report? 12:22:02

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1	A	I did.	12:22:04
2	MR. CHANG:	Vague. He has two reports. That's	12:22:08
3		why I say it's vague.	12:22:10
4	BY MR. BRADY:		12:22:11
5	Q	His initial report; correct?	12:22:12
6	A	Yes.	12:22:13
7	Q	And you wrote a rebuttal to that; correct?	12:22:13
8	A	I did.	12:22:16
9	Q	In Professor English's report, did he cite data	12:22:16
10		that indicated half, I believe -- or -- or, I'm sorry,	12:22:22
11		that the second-most important reason that the owner of	12:22:31
12		an assault weapon acquired one was self-defense?	12:22:39
13	A	You know, I hope he didn't for his own sake	12:22:45
14		because it would almost certainly be garbage, but I	12:22:49
15		don't recall.	12:22:53
16	Q	Why would it be garbage?	12:22:53
17	A	Because it's -- I mean, again, if it's any	12:22:54
18		significant number, then you have got to be talking to a	12:23:04
19		very selected group of likely unreliable reporters, and,	12:23:08
20		you know, that group will say very unusual things.	12:23:18
21	Q	What group are you referring to?	12:23:23
22	A	The sort of people that answer NRA surveys.	12:23:26
23	Q	Do you know whether Professor English was relying	12:23:34
24		on an NRA survey?	12:23:37
25	A	I don't. That's why I say I hope he didn't,	12:23:38

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1 because it would be really undermining of his authority 12:23:42

2 if he -- if he were. 12:23:47

3 Q And if he relied on a survey done by the National 12:23:49

4 Shooting Sports Foundation? 12:23:59

5 A I mean, I'd certainly need to know a lot about 12:23:59

6 it. My -- my initial assumption would be: Not going to 12:24:05

7 be a reliable source. 12:24:10

8 Q And why would that be? 12:24:12

9 A Just for all the reasons we have been talking 12:24:14

10 about. I mean, you were offering suggestions for why 12:24:16

11 the General Social Survey might not be fully accurate, 12:24:27

12 and these are some of the best survey scientists in the 12:24:31

13 country who really care about the truth. 12:24:35

14 What gun group have -- has ever shown a similar 12:24:40

15 concern about science or the truth? I'm not aware of 12:24:45

16 any. 12:24:48

17 Q Do the gun control groups show a concern for 12:24:48

18 truth? 12:24:54

19 A Sometimes they do and sometimes they don't, and 12:24:54

20 you have to be very cautious about, you know, what you 12:24:59

21 rely on. 12:25:03

22 Q How do you know whether they are being careful 12:25:03

23 about the truth or not? 12:25:06

24 A You know, you really need to look at whatever is 12:25:07

25 being offered by advocates fairly carefully and test it 12:25:16

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1 according to the traditional scientific notions. 12:25:24

2 Q Do you ever rely on gun control groups' 12:25:28

3 information and materials in formulating your opinions? 12:25:33

4 A You know, again, if -- if I feel there -- there 12:25:36

5 is accurate and reliable data, then -- then I would rely 12:25:45

6 on it from -- from any source, but it does have to be 12:25:48

7 accurate and reliable. 12:25:51

8 MR. BRADY: 9? 9? Oh, you know what? It's one 12:26:10

9 page. 12:26:13

10 (Exhibit 9 was marked for identification 12:26:15

11 by the Court Reporter.) 12:26:16

12 BY MR. BRADY: 12:26:16

13 Q So Exhibit 9 is the results of a consumer report. 12:26:31

14 In the lower left-hand corner you see "NSSF 2010." 12:26:45

15 A Mm-hmm. 12:26:50

16 Q Would you understand that to mean "National 12:26:51

17 Sports Shooting Foundation" and that this was prepared 12:26:55

18 in the year 2010? 12:26:55

19 A That's what I would have guessed. 12:26:56

20 Q And when they use the term "MSR," do you 12:26:58

21 understand what that term means? 12:27:01

22 A Yes. 12:27:02

23 Q What is that? 12:27:03

24 A They are referring to -- I assume they are 12:27:04

25 referring to "Modern Sporting Rifle." 12:27:09

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1 Q And that is the NSSF's term for a rifle that 12:27:11
2 meets the definition of an assault weapon, generally; 12:27:18
3 right? 12:27:21

4 A Yes. 12:27:21

5 Q So when they talk about MSRs, they are 12:27:21
6 essentially talking about so-called rifles that meet the 12:27:27
7 definition of an assault weapon, such as an AR-15 or an 12:27:33
8 AKA platform rifle. 12:27:36

9 Would that be your understanding? 12:27:38

10 A Yes. 12:27:39

11 Q And so what is the No. 1 reason that people 12:27:39
12 acquire these firearms? 12:27:49

13 MR. CHANG: Objection; vague. 12:27:51

14 BY MR. BRADY: 12:27:52

15 Q Per -- according to this document? 12:27:52

16 A Well, do we see on this to bulk up a flagging 12:27:54
17 sense of masculinity? I don't see that on the list 12:28:02
18 here. 12:28:06

19 Have you seen any of the advertisements for 12:28:08
20 modern sporting rifles, "Get your Man Card reissued"? 12:28:12
21 That would probably be No. 1 if they put it on the list, 12:28:20
22 but we don't -- they didn't give you that choice, did 12:28:23
23 they? 12:28:25

24 Q So it's your opinion that if there was an option 12:28:25
25 on the survey of: I would like to feel more masculine, 12:28:33

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1 that people who acquired these firearms would -- that 12:28:39
2 would be No. 1 -- the No. 1 response or reason that 12:28:42
3 people who acquired these firearms would give? 12:28:45

4 A Well, this is the point of why I'm skeptical 12:28:48
5 about survey data for certain things. If they answered 12:28:53
6 truthfully, sure, lots of them would say that, but most 12:28:58
7 of them would say, hey, I don't want to look like a 12:29:01
8 weenie here, so the reason why I got the gun is so 12:29:04
9 people wouldn't think I'm a weenie. So you are not 12:29:07
10 going to get a -- a truthful answer on this question. 12:29:09

11 And you don't even give them a choice for that, 12:29:12
12 so how could this possibly be useful? 12:29:15

13 Q Have you reviewed the survey that went out to 12:29:20
14 collect these responses? 12:29:24

15 A I've not. 12:29:25

16 Q And you don't know the methodology for which 12:29:27
17 they -- the NSSF? 12:29:33

18 A I mean, you know, I remember when Microsoft was 12:29:37
19 being sued, and Bill Gates sent out an e-mail saying, 12:29:39
20 you know, "Get me some survey that says we need the 12:29:44
21 browser connected to the search engine," and, you know, 12:29:50
22 a few weeks later, they concocted a survey that said the 12:29:57
23 browser should be connected to the search engine, but -- 12:30:01
24 so you have to be very cautious about these industry 12:30:08
25 groups creating surveys to -- you know, I mean, 12:30:11

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1 obviously they want to say it's good for home defense. 12:30:16

2 You know, most real gun experts will tell you, "No. 12:30:21

3 This is not only not necessary for self-defense, but is 12:30:24

4 not an important factor for people who understand 12:30:29

5 guns" -- 12:30:34

6 Q Most gun experts would say that? On what do you 12:30:35

7 base that? 12:30:39

8 A Conversations with gun experts -- 12:30:39

9 Q How many? 12:30:44

10 A Hundreds. Hundreds. 12:30:47

11 Q Can you name one gun expert that said that an 12:30:50

12 AR-15 is not important for self-defense? 12:30:53

13 A Yeah, I can name plenty, but let me give you 12:30:56

14 someone of some prominence. 12:31:02

15 Dean Winslow, he is former colonel in the Army 12:31:06

16 and was nominated by James Mattis to be the assistant 12:31:15

17 secretary of defense for medical affairs, and I 12:31:23

18 reference him in my report, and he is very clear about 12:31:28

19 the absolute inappropriate nature of these weapons for 12:31:37

20 both home defense and for civilian use in an 12:31:46

21 unrestrained and unrestricted way. "So, yeah, shooting 12:31:50

22 is a blast, and I -- I enjoy shooting," he'll -- he'll 12:31:54

23 say, but the idea you need this for anything other than 12:31:59

24 having fun is -- is really quite a stretch. 12:32:03

25 Q And he's a self-defense expert? 12:32:06

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1 A Yeah, I mean, he's -- 12:32:08

2 Q What are his credentials in self-defense 12:32:12

3 expertise? 12:32:15

4 A You know, I -- I can amend my report if you would 12:32:15

5 like me to include all of his credentials on that, but 12:32:25

6 it is -- 12:32:30

7 Q No. I'm sure you could find an expert to say 12:32:31

8 anything. 12:32:36

9 What you said was that most gun experts say that 12:32:37

10 these rifles are not important for self-defense, and it 12:32:42

11 sounds to me that you are -- then you said you are 12:32:46

12 basing that on your conversations with these experts, 12:32:48

13 hundreds of them. 12:32:52

14 A Yeah. 12:32:53

15 Q You have given one example, and -- 12:32:53

16 A And -- and -- so -- 12:32:53

17 Q -- but you don't know his self-defense 12:32:57

18 credentials? 12:32:59

19 A Yeah, and I -- 12:32:59

20 MR. CHANG: Objection as to "self-defense 12:33:00

21 credentials" as vague and ambiguous. 12:33:03

22 BY MR. BRADY: 12:33:04

23 Q Does he train people on self-defense, to your 12:33:04

24 knowledge? 12:33:06

25 A No. No. 12:33:06

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1 But -- but, Sean, your point is true. You can 12:33:09
2 get an expert to say anything. Certainly the gun 12:33:12
3 industry, you can get an expert to say anything, and, 12:33:17
4 you know, some people will -- will say -- you know, 12:33:22
5 they -- they think an AR-15 is -- is important to their 12:33:26
6 self-defense, but knowledgeable people will not say 12:33:30
7 that, and -- you know, I mean, unless they are, you 12:33:40
8 know, in the -- I mean, you know, in the military, sure. 12:33:48
9 That's... 12:33:50
10 Q Did you read Professor Buford Boone's expert 12:33:50
11 report in this matter? 12:33:55
12 A Oh, what a nightmare that was. I did read that. 12:33:56
13 It was very unpleasant. He really doesn't know what 12:33:59
14 he's talking about. 12:34:02
15 MR. CHANG: Objection; vague and ambiguous as to 12:34:03
16 which -- which Boone report. 12:34:06
17 BY MR. BRADY: 12:34:09
18 Q Which Boone report are you referring to that was 12:34:09
19 a nightmare, Professor? 12:34:12
20 A He -- he commented on my report. I don't know if 12:34:13
21 I read his whole report or just the parts that he 12:34:17
22 commented on me, but, boy, he's -- \$700 an hour for 12:34:20
23 that? Oh my God, that was very disappointing. 12:34:28
24 Q How so? 12:34:33
25 A I mean, I -- I felt, on its face, it was so 12:34:34

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1 embarrassing that it -- it wouldn't matter what he was 12:34:42
2 talking about. He was incoherent. He -- he 12:34:45
3 contradicted himself. Engaged in the pedantic nonsense 12:34:48
4 that so many gun zealots engage in, and it was not 12:34:54
5 worthy of federal court. It was disgraceful, I thought. 12:35:07
6 But, you know, he -- 12:35:13
7 Q Are you aware of Mr. Boone's credentials? 12:35:15
8 A Yeah. 12:35:18
9 I was aware of Flynn's credentials when he was 12:35:19
10 chosen by President Trump as national security advisor, 12:35:24
11 but some people betray their country and some people 12:35:28
12 betray their sense of fidelity to the truth and honesty. 12:35:33
13 Q And you are saying Mr. Boone did that? 12:35:42
14 A I'm just saying his report was an embarrassment, 12:35:45
15 and he's going to have to figure out what was motivating 12:35:49
16 him there. Maybe it was the \$700 an hour. I don't 12:35:55
17 know. 12:35:57
18 Q Well, we -- we got on this subject talking about 12:35:57
19 self-defense experts -- 12:36:00
20 A Mm-hmm. 12:36:00
21 Q -- correct? 12:36:03
22 A Mm-hmm. 12:36:03
23 Q Would you consider an individual who the FBI 12:36:04
24 tasks with training their Cadettes to be a self-defense 12:36:11
25 expert? 12:36:15

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1 A I just told you, I said I considered Flynn to be 12:36:15
2 a national security expert, but he sold out his nation. 12:36:23
3 He's pled guilty. 12:36:27

4 Q Okay. But I'm not asking about General Flynn. 12:36:30
5 I'm asking: So is it your opinion that Mr. Boone 12:36:33
6 does not believe what he's saying, that these rifles are 12:36:35
7 good for self-defense? 12:36:39

8 A We -- we have standards for logic, consistency, 12:36:41
9 and judging relevance. That report showed he either 12:36:47
10 does not understand the rules of logic and consistency 12:36:55
11 and relevance or he was ignoring them. In either case, 12:36:59
12 he should not be an expert in this case. 12:37:05

13 If you -- if you don't understand anything about 12:37:08
14 logic, consistency, or at least you cannot reflect it in 12:37:12
15 your written report, you do not deserve to be 12:37:16
16 considered. And I -- I'm hopeful that everyone will 12:37:26
17 recognize the report for that, because I just thought it 12:37:29
18 was a disgrace. 12:37:32

19 Q So what exactly did you disagree with him about? 12:37:33

20 A I mean, as I said, I only read the things he 12:37:39
21 wrote about me. 12:37:42

22 Q So you did not read his initial report? 12:37:44

23 A No. No. But... 12:37:47

24 Q So we got on the subject of self-defense experts 12:37:58
25 in talking about the NSS survey, which is marked as 12:38:09

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1 Exhibit 9. 12:38:16

2 A Yeah. 12:38:16

3 Q And the second-most important reason that people 12:38:16

4 who acquired these rifles gave to the NSSF is home 12:38:24

5 defense; is that correct? 12:38:30

6 A That's what it says on the survey. 12:38:31

7 Q And you just don't buy the survey; right? 12:38:37

8 A No. 12:38:40

9 Q But that is what the survey says, is that home 12:38:40

10 defense is the second-most important reason that 12:38:42

11 purchasers of these rifles gave for purchasing them; 12:38:45

12 right? 12:38:48

13 A Yeah, that's -- that's the conclusion. 12:38:48

14 Q Are you aware of any better data on the subject 12:38:51

15 than this? 12:38:54

16 A Well, one piece of data is look at the 12:38:54

17 advertisements for these weapons. Are they -- are 12:39:03

18 they -- how many times have you heard them referred to 12:39:08

19 as "protection weapons"? I don't think you hear that 12:39:10

20 very often. 12:39:15

21 Q Have you done analysis of the advertising for 12:39:16

22 these rifles? 12:39:21

23 A Yeah, I've -- I've looked at them. I've never 12:39:22

24 seen any reference to that, and I've seen lots of 12:39:24

25 references along the lines that I spoke of earlier, and 12:39:28

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1 that's the reason that they call them "assault weapons." 12:39:37
2 That was the marketing strategy. The reason that they 12:39:43
3 advertise "Get your Man Card reissued," it's -- it's all 12:39:46
4 designed to appeal to some fantasy, notion of 12:39:52
5 violence or, in the case of mass murderers, your 12:39:57
6 aspirations for violence. 12:40:02
7 Q So your testimony is that you have not seen any 12:40:04
8 advertising for rifles meeting the definition of assault 12:40:16
9 weapon that promote them as defensive weapons. 12:40:21
10 Is that what you are saying? 12:40:25
11 A No. I'm saying that the basic strategy from day 12:40:27
12 one for these weapons was to sell them on a very 12:40:31
13 different basis. 12:40:36
14 Q How do you know what the industry's strategy was? 12:40:38
15 A Just from reports -- 12:40:42
16 Q Reports saying what? 12:40:49
17 A About what the strategy was when the effort was 12:40:50
18 made to introduce these into the civilian market. 12:40:55
19 Q So there was people who were the developers of 12:40:59
20 that strategy or who had personal knowledge telling 12:41:01
21 people that was what the strategy was, or were these 12:41:05
22 people theorizing that that is what was going on? 12:41:09
23 A Yeah. Sure. I mean, your -- the secondary 12:41:13
24 literature is looking at the data and drawing 12:41:18
25 conclusions. 12:41:23

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1 Q So it's speculation, but it's -- you just think 12:41:24
2 that the evidence supports that speculation; right? 12:41:27

3 A I wouldn't say it's speculation, and I will say 12:41:29
4 I've seen many ads talking about things -- that these 12:41:37
5 guns are supposed to be used in a sort of assaultive way 12:41:42
6 or a mock-military way or to make you feel better about 12:41:49
7 your, you know, insecure manhood, and I've never heard 12:41:52
8 these guns referred to as "protection rifles." I've 12:42:00
9 heard them referred to as "assault rifles," "tactical 12:42:04
10 weapons," "sporting rifles," so the way in which the 12:42:08
11 industry refers to them -- you know, sure, if they think 12:42:14
12 that they can get some sales up with this claim, you 12:42:20
13 know, they -- they would start doing that, but I -- I -- 12:42:27
14 I just don't believe that many people think that these 12:42:33
15 guns are designed for self-defense in the home. 12:42:41

16 Q If you saw a report from numerous self-defense 12:42:49
17 experts and former military saying that these rifles 12:42:59
18 are, indeed, good for home defense, would that influence 12:43:08
19 your opinion on that subject? 12:43:12

20 MR. CHANG: Objection; vague and ambiguous as to 12:43:13
21 "self-defense experts." 12:43:16

22 THE WITNESS: You know, I would look at them, 12:43:18
23 but, you know, are they going to be just the 12:43:20
24 General Flynn's selling out their country or -- 12:43:22

25 BY MR. BRADY: 12:43:25

1 Q How would you make that determination? 12:43:26

2 A Well, then, you would look at what they say. 12:43:27

3 I've looked at what Boone says, and I know he has 12:43:30

4 a very -- he -- he demonstrated he has a difficult time 12:43:33

5 in understanding logic, consistency, and relevance. 12:43:40

6 Q And how does that impact his opinion that an 12:43:45

7 AR-15 is a good weapon for home defense? 12:43:50

8 A Because I would not validate anything he said, 12:43:52

9 given the demonstrated lack of coherence and -- and just 12:44:00

10 logic. 12:44:06

11 I mean, if a person has shown they have a very 12:44:09

12 impaired ability to think -- or at least write clearly, 12:44:15

13 what they write is not really going to be worthy of much 12:44:23

14 weight being put on it. 12:44:30

15 Q But if there was a well-done survey, a survey 12:44:31

16 done according to standards that you accept, perhaps the 12:44:38

17 GSS, asking former military whether they believe that 12:44:44

18 this rifle is good for home defense, would that change 12:44:50

19 your opinion on the subject? 12:44:55

20 A You know, as we said, the gun industry can get an 12:44:56

21 expert to say anything. All you need to tell them is, 12:45:11

22 "Look, it will help our chance in litigation, so say 12:45:14

23 this," so that -- that's a real concern. 12:45:17

24 Q So you think former military, people who swore an 12:45:25

25 oath to the Constitution, would violate that oath to 12:45:30

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1 appease the gun lobby in providing their opinion on 12:45:36
2 these rifles? 12:45:39

3 MR. CHANG: Objection; lacks foundation, 12:45:40
4 argumentative, vague and ambiguous. 12:45:45

5 THE WITNESS: Yeah, I mean, I would not have 12:45:46
6 thought General Flynn would sell out his country and he 12:45:51
7 did, so you never know. You have to look at the 12:45:54
8 individual case. 12:45:57

9 BY MR. BRADY: 12:45:57

10 Q I asked about a survey. Granted, it's a 12:45:58
11 hypothetical survey. 12:46:02

12 I'm asking: Would you take that into 12:46:03
13 consideration if you saw a significant contingent of 12:46:06
14 former military saying that this rifle is, indeed, good 12:46:10
15 for self-defense and you did not see an equivalent or 12:46:15
16 similar response from former military rejecting that 12:46:20
17 premise? Would that change your opinion? 12:46:26

18 MR. CHANG: Objection; vague and ambiguous as to 12:46:28
19 "self-defense." 12:46:32

20 THE WITNESS: Yeah, I mean, this says "home 12:46:34
21 defense," and it's so implausible -- you know, again, 12:46:36
22 maybe you could say, "Well, what if your home's out in 12:46:44
23 the middle of nowhere" -- yeah, so maybe there. But in 12:46:47
24 terms of a defensive weapon for American civilian use, 12:46:55
25 no. 12:47:05

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1 But, you know, it would be interesting to conduct 12:47:06
2 such a survey. And then, you know, maybe probe further 12:47:11
3 to see whether these people have the obvious 12:47:14
4 shortcomings that Mr. Boone has or whether they really 12:47:19
5 are going to be reliable on something like this. 12:47:26

6 But, you know, obviously we know tons of military 12:47:29
7 people would -- would say, you know, "No way. These are 12:47:33
8 completely unnecessary and have no place in civilian 12:47:38
9 marketplace," but, you know, it would be interesting to 12:47:42
10 see what the real breakdown would be on that. 12:47:45

11 BY MR. BRADY: 12:47:47

12 Q Did you read the expert report from Plaintiffs' 12:47:47
13 expert Steve Helsley in this matter? 12:47:52

14 A I don't think so. 12:47:56

15 Q So you are not aware of his credentials? 12:47:56

16 A You know, I -- I didn't look at that. 12:48:00

17 Q If I were to tell you that he was a former bureau 12:48:06
18 chief of the California Department of Justice in the law 12:48:13
19 enforcement division and his opinion is that these 12:48:18
20 rifles are, indeed, good for home defense, would that 12:48:24
21 carry any weight with you? 12:48:26

22 MR. CHANG: Objection; lacks foundation. 12:48:28

23 BY MR. BRADY: 12:48:34

24 Q Or is he another General Flynn? 12:48:34

25 MR. CHANG: Lacks foundation. 12:48:36

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1 THE WITNESS: Yeah, I mean, I wouldn't -- I 12:48:37

2 wouldn't know, so I can't speculate on that. 12:48:39

3 BY MR. BRADY: 12:48:41

4 Q So getting back to your report, page 9, 12:48:42

5 paragraph 27, you state: The limited minority status of 12:48:47

6 assault-weapon ownership is also underscored by the 12:48:54

7 large majority of Americans who support bans on assault 12:48:58

8 weapons. 12:49:04

9 A Yeah. 12:49:05

10 Q You state: This is certainly evident for 12:49:06

11 California where the November 2016 ban on assault 12:49:07

12 weapons that is attacked in this litigation was approved 12:49:10

13 by an almost 2-to-1 majority. 12:49:15

14 What do you mean by that sentence? 12:49:19

15 A Yeah, that -- that sentence is not well done, I 12:49:21

16 must confess. I -- I was just trying to underscore the 12:49:27

17 point that we see in California a pretty strong move in 12:49:36

18 this state in the direction of gun control, from -- 12:49:43

19 everything from the legislative enactments in the summer 12:49:46

20 of 2016, to the November 2016 referendum, to the 12:49:50

21 election of Gavin Newsom who has made gun control one of 12:49:55

22 his core political promises to the voters -- 12:50:01

23 Q But specifically about assault weapons, you say 12:50:07

24 that is -- the law that is attacked in this litigation 12:50:11

25 was approved by an almost 2-to-1 majority. 12:50:14

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1 Is it your understanding that the laws being 12:50:17
2 challenged in this litigation were approved by the 12:50:20
3 people via -- via a vote? 12:50:22

4 A Well, no. As I said, this -- this statement 12:50:27
5 is -- is not right. 12:50:32

6 What -- what I should have said is just what I 12:50:36
7 said in my answer, that the -- the -- the strong 12:50:39
8 evidence in California is supported across the board for 12:50:50
9 gun control, as reflected in the three points that I 12:50:53
10 just made: the legislative adoptions of the summer of 12:50:57
11 2016, the strenuous success of the ballot initiative in 12:51:01
12 November of 2016, and then the election of Gavin Newsom 12:51:10
13 behind a very strong commitment to gun control. 12:51:17

14 Q Got it. 12:51:23

15 So you are not -- it's not your -- you are not 12:51:24
16 operating under the assumption that these laws were 12:51:28
17 passed by proposition; right? 12:51:30

18 A That's right. 12:51:31

19 Q Okay. Moving on, it says: It is also true -- it 12:51:32
20 is also true nationally, "it" being that -- 12:51:36

21 A A large majority -- 12:51:43

22 Q -- large majority of Americans support bans on 12:51:43
23 assault weapons. 12:51:45

24 A Yeah. 12:51:45

25 Q And it says: A poll conducted for the New York 12:51:46

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1 Times from June 17th through the 20th, 2016, among a 12:51:50
2 national sample of 19 -- 1,975 registered voters, found 12:51:54
3 that 67 percent of Americans favored such a ban. 12:52:01
4 A Yes. Yes. 12:52:05
5 MR. BRADY: 10? 12:52:25
6 (Exhibit 10 was marked for 12:52:25
7 identification by the Court Reporter.) 12:52:25
8 BY MR. BRADY: 12:52:25
9 Q So I've marked, as Exhibit 10, a document titled 12:52:31
10 "How to Reduce Mass Shooting Deaths? Experts Rank Gun 12:52:35
11 Laws," by Margo Sanger-Katz and Quoctrung Bui. 12:52:40
12 A Yes. 12:52:53
13 Q Is this the document you are referring to when 12:52:53
14 you say "a poll conducted from the New York Times from 12:52:57
15 June 17th to June 20, 2016"? 12:53:05
16 A Yes. 12:53:07
17 Q And do you know whether the New York Times itself 12:53:24
18 conducted this poll or some other entity? 12:53:31
19 A It was some other entity. 12:53:36
20 Q Do you know what entity that was? 12:53:39
21 A I -- my understanding was, it was something that 12:53:41
22 the New York Times, you know, asked for or something, 12:53:46
23 but I would have to look -- look back at the precise 12:53:54
24 details on that. I don't recall off the top of my head. 12:53:59
25 Q So you don't know the entity that put this survey 12:54:02

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1 together? 12:54:14

2 MR. CHANG: Objection; mischaracterizes the 12:54:15

3 witness's testimony. 12:54:20

4 THE WITNESS: Yeah, I did know, and I'm just sort 12:54:23

5 of blanking right now what the name of the entity was. 12:54:28

6 BY MR. BRADY: 12:54:33

7 Q Was it the Law Center to Prevent Gun Violence? 12:54:33

8 A No. 12:54:37

9 Q Was it the Violence Policy Center? 12:54:37

10 A No. No. No. It was an independent survey 12:54:43

11 entity. 12:54:49

12 Q So you can't recall what entity conducted the 12:54:51

13 survey; is that right? 12:54:55

14 A Yeah, as I'm sitting here, I'm -- I'm blanking on 12:55:05

15 the name, but it was -- it was -- you know -- 12:55:08

16 MR. CHANG: Would it help if you review the 12:55:09

17 article? 12:55:11

18 THE WITNESS: This article I don't think talks 12:55:11

19 about that; although, it might. Let's see. 12:55:13

20 Oh, yeah, so it said Morning -- Morning Consult 12:55:13

21 is the group. 12:55:31

22 BY MR. BRADY: 12:55:31

23 Q Where is that? I'm sorry. 12:55:32

24 A It's "How we made our matrix." 12:55:32

25 Q Morning Consult. 12:55:35

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1 A Yeah. 12:55:37

2 Q Conducted a survey of 1975 voters? 12:55:37

3 A Yeah, so the -- the -- and it's a very long 12:55:42

4 survey, very, you know, involved, and, you know, 12:55:45

5 they're -- they're -- they work for entities like the 12:55:55

6 Times to come up with survey results. 12:55:58

7 Q Are you familiar with their methods in conducting 12:56:01

8 this survey? 12:56:10

9 A You know, I looked at them at the time, and, in 12:56:11

10 general, you know, they seemed as reliable as, you know, 12:56:21

11 Pew or Gallup in terms of the methodologies that they 12:56:26

12 employ, and I thought the fact that the -- the Times was 12:56:35

13 using them was, you know, further sign the Times usually 12:56:46

14 goes to pretty talented people to do that sort of work. 12:56:47

15 Q So you would trust a poll more so if it was 12:56:53

16 conducted by or approved by the New York Times? 12:56:58

17 A Yeah, I mean, you have to be cautious. I mean, 12:57:12

18 if it was a survey done to say, "Is the New York Times 12:57:15

19 the best paper?" I might be a little concerned. 12:57:19

20 Q Sure. 12:57:22

21 On the issue of gun control. 12:57:23

22 A But, yeah, on the issue of gun control, I think 12:57:24

23 they are -- they are going to be interested to find out 12:57:28

24 what the survey legitimately says for the questions they 12:57:31

25 are interested in. 12:57:41

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1 MR. CHANG: So, Sean -- 12:57:43
2 MR. BRADY: Can I just finish up? 12:57:44
3 MR. CHANG: -- finish this line of questioning -- 12:57:45
4 right. 12:57:47
5 MR. BRADY: 11. 12:58:00
6 (Exhibit 11 was marked for 12:58:01
7 identification by the Court Reporter.) 12:58:02
8 BY MR. BRADY: 12:58:02
9 Q Have you ever seen Exhibit 11? 12:58:02
10 A I'm not sure. 12:58:08
11 Q Do you know what Exhibit 11 is? 12:58:36
12 A I mean, it looks like it's a compilation of 12:58:37
13 various survey -- surveys taken by -- is it -- all 12:58:47
14 trends from the New York Times/CBS News polls. 12:59:06
15 Q Would you have any reason to question this 12:59:09
16 New York Times poll more so than the other 12:59:17
17 New York Times poll? 12:59:20
18 A No. I think, you know, these are all, you know, 12:59:24
19 surveys that I would put on the sort of same level of 12:59:30
20 reliability. 12:59:34
21 Q Could you flip to page 2. Okay? 12:59:36
22 The second question on the page, which is 12:59:44
23 Question 65 of the survey -- just for clarification, 12:59:50
24 this exhibit is an excerpt of the poll with only the 12:59:57
25 page and with the question of interest, just so you are 01:00:02

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1 aware. The -- the -- all the -- there were 63 questions 01:00:08
2 prior to this page that were not relevant to the 01:00:13
3 subject, and so in the -- for the purpose of not having 01:00:16
4 you flip through all the pages and find -- 01:00:21
5 A Yeah. 01:00:21
6 Q -- this question, I have limited it to the one 01:00:24
7 page. 01:00:28
8 A Yeah. 01:00:28
9 Q So do you see Question 65? 01:00:29
10 A Yes. 01:00:33
11 Q And it says: Do you favor or oppose a nationwide 01:00:33
12 ban on assault weapons? Correct? 01:00:36
13 A Yeah. 01:00:39
14 Q And what is the most recent number percentage in 01:00:39
15 favor of opposing -- in favor of a ban on assault 01:00:48
16 weapons? 01:00:56
17 A Well, the most recent number is the one that we 01:00:56
18 looked at in Exhibit 10. 01:01:01
19 Q Understood. I'm asking about this -- 01:01:03
20 A Yeah. 01:01:03
21 Q -- particular survey. 01:01:05
22 A Yeah, so -- so this -- this one -- you can see 01:01:07
23 all of them were very positive, and then it bumps down 01:01:10
24 for this one in 2015 to 44 percent. 01:01:16
25 But that -- that sort of makes my point; that you 01:01:24

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1 have to be careful about, you know, just one survey in, 01:01:26
2 I think, you know, the bulk of the surveys -- you know, 01:01:33
3 I mean, how many do we have? One, two, three, four, 01:01:37
4 five, six, seven, eight, nine, ten, 11 -- 11 out of 12 01:01:44
5 here, and then the next one, so it's 12 out of 13, and 01:01:44
6 if you look at, you know, other surveys -- you were 01:01:48
7 showing me the Pew survey on gun ownership, and that 01:01:50
8 shows, you know, very strong support for assault 01:01:53
9 weapons. 01:01:59
10 So, you know, there's always -- there's always 01:01:59
11 noise in all of this data, but does seem like the bulk 01:02:03
12 of the evidence is exactly as I suggested in my report. 01:02:11
13 Q Did you look at any other surveys on the subject 01:02:28
14 of people's positions, views on assault weapon 01:02:34
15 possession? 01:02:44
16 A I mean, do I cite -- 01:02:44
17 Q I think in paragraph 28 you do. 01:02:51
18 A Okay. Yeah, so we see the Pew survey -- 01:02:53
19 Q What year is that Pew Research survey from? 01:03:03
20 A Well, there are two; one from 2017, one from 01:03:05
21 2018. 01:03:10
22 Q So is the -- is the Pew Research Center survey 01:03:11
23 that you cite to in paragraph 28 the same Pew Research 01:03:15
24 Center survey that we marked as Exhibit 5? 01:03:24
25 A Exhibit 6? 01:03:35

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1 Q Exhibit 6. 01:03:36

2 A Yeah, let me see. I mean, the -- the number is 01:03:38

3 the same, right? I don't see the dates that would 01:03:54

4 confirm it, but at least the number is the same. 01:04:02

5 Q At the top of the second page of Exhibit 6 -- 01:04:04

6 A Oh, there it is, yeah. Yeah. 01:04:25

7 Q So this is the -- 01:04:27

8 A Yeah. 01:04:27

9 Q -- correct one? 01:04:28

10 A Yeah. Yeah, that is. 01:04:28

11 Q So you cited the most recent Pew Research Center 01:04:30

12 survey for the purpose of showing opposition to assault 01:04:36

13 weapon laws -- or opposition to assault weapons -- 01:04:43

14 A Mm-hmm. 01:04:43

15 Q -- right? 01:04:49

16 A Yeah. 01:04:49

17 Q But you did not cite this Pew Research Center 01:04:49

18 survey for the purpose of firearm prevalence; right? 01:04:56

19 A Yeah, as I said, I -- when I wrote the -- the 01:05:03

20 prevalence part of my report, I was relying on the work 01:05:11

21 I did for the 2017 paper that I attached, so I didn't -- 01:05:14

22 I didn't do more on that. 01:05:21

23 Q So, then, did you not read the entire survey? 01:05:23

24 Did you just skim through to find the question about 01:05:26

25 people's views on assault weapons? 01:05:31

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1 A Yeah, I was -- I -- in this part, I was talking 01:05:33
2 about what are -- what are people thinking about -- is 01:05:35
3 it good to have an assault weapon ban at this point, 01:05:40
4 and, you know, the -- the two -- the two Pew surveys and 01:05:42
5 the New York Times survey all -- all were given almost 01:05:50
6 the same result on that, and -- and so I -- I put in 01:05:55
7 everything I looked at. 01:06:01

8 Q Pardon my reach. I just want to -- oh, thank 01:06:02
9 you. Exhibit 7. I had it marked wrong, so thank you. 01:06:12

10 A Yeah. 01:06:16

11 Q So in looking at the survey for the issue of 01:06:16
12 people's views on assault weapons, you state in your 01:06:40
13 report: Less than a year later, a Pew Research Center 01:06:46
14 survey among 3,930 adults conducted for March 13th, 01:06:50
15 2017, and April 4th through the 18th, 2017, showed broad 01:06:58
16 opposition to assault weapons across the political 01:07:01
17 spectrum. 01:07:04

18 Where did you learn of the dates for which they 01:07:05
19 conducted the survey? 01:07:12

20 A You know, I -- I must have gotten it from the -- 01:07:16
21 the survey document. 01:07:24

22 Q Okay. Can you look at Exhibit 6 and where we 01:07:25
23 just -- when the -- what you read to confirm -- 01:07:27

24 A Mm-hmm. 01:07:27

25 Q -- that this is, indeed, the same Pew Research 01:07:33

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1 Center survey -- 01:07:37

2 A Mm-hmm. 01:07:38

3 Q -- that you did not cite for the purpose of 01:07:38

4 firearm ownership? 01:07:44

5 A Yeah. 01:07:45

6 Q And where on the page is this information about 01:07:46

7 the survey being conducted from March 13th to the 27th 01:07:52

8 and April 4th to the 18th? 01:07:57

9 A Yeah, but I would have been reading it online, so 01:08:00

10 it would not have been on the same page. If I had seen 01:08:02

11 it, I would have cited that. 01:08:06

12 Q So how do you know that this was not online in 01:08:07

13 this same format? 01:08:16

14 A Well, I -- I -- I know that because I look at 01:08:17

15 this stuff all the time, and I know that this format is 01:08:21

16 not the way it's -- it's typically being viewed as you 01:08:25

17 are scrolling through the pages. 01:08:31

18 But my only point is, if I had noticed that there 01:08:32

19 was something that was relevant to something I said in 01:08:36

20 my report, I would have put that in. It wouldn't have 01:08:38

21 changed the conclusion, for the reasons that we talked 01:08:42

22 about, but I would have said, you know, Pew supported 01:08:44

23 the finding of the GSS in -- in its previous one and 01:08:52

24 then departed from its support for the GSS in the latest 01:08:56

25 one, and that just would have been a footnote, but I -- 01:09:00

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1 I didn't see it, so -- as I said, I didn't go back and 01:09:04
2 do any independent research on household ownership 01:09:07
3 question, and -- and that was because I had spent a lot 01:09:16
4 of time doing that 2017 report, and I don't think any 01:09:22
5 conclusion would vary from that -- you know, from 2017 01:09:27
6 to 2018, even if -- even if, you know -- literally 01:09:34
7 anything, it would just be one data point, and we would 01:09:40
8 have the problems that we were just seeing in the 01:09:44
9 New York Times one that you cited. It's clearly an 01:09:47
10 outlier and not one that you would rely on without 01:09:51
11 seeing, like, the next survey to figure out what's wrong 01:09:54
12 with this particular thing or -- or has suddenly the -- 01:10:00
13 the world shifted in some unusual way. 01:10:04
14 Q Can you refer to Exhibit 7. 01:10:07
15 A Exhibit 7, yes. 01:10:15
16 Q The one I just touched. Sorry about that. 01:10:16
17 Page 7. 01:10:18
18 A Yeah. 01:10:20
19 Q Now, this is the Gallup poll survey; correct? 01:10:21
20 A Yeah. 01:10:27
21 Q And the question in the middle of the page on 01:10:28
22 page 7 is: Are you for or against a law which would 01:10:33
23 make it illegal to manufacture, sell, or possess 01:10:40
24 semiautomatic guns known as "assault rifles"? 01:10:43
25 A Yeah. Yeah. Yeah. So I actually thought this 01:10:46

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1 was -- thi was a poorly worded question, so not -- not 01:10:53
2 relevant to our inquiry. 01:10:57

3 Q Why is that? 01:11:01

4 A Because I -- I suspect that -- well, I -- I -- my 01:11:02
5 fear was that a lot of people would look at this and say 01:11:08
6 we are defining assault weapons as semiautomatic guns, 01:11:13
7 and -- and people aren't in favor of banning all 01:11:19
8 semiautomatic guns. It's just the assault weapons. 01:11:24

9 So, you know, phrasing is -- is important in 01:11:29
10 these surveys, and I thought that this particular 01:11:34
11 phrasing was -- was very likely to give the wrong 01:11:37
12 answer. 01:11:46

13 And you raise an interesting question. Does this 01:11:46
14 suggest Gallup is sort of, you know, trying to put their 01:11:49
15 finger on the scale in the gun debate? I don't have any 01:11:52
16 reason for knowing this, but it's interesting that they 01:11:59
17 are the ones who are sort of out of line on the -- on 01:12:02
18 the ownership levels and now using a question that, 01:12:09
19 almost on its face, seems like it's not likely to give a 01:12:12
20 good result. 01:12:15

21 It would be interesting to speculate. I need to 01:12:17
22 find out, you know, is Gallup totally aboveboard on -- 01:12:21
23 on this, or is it just, you know, somebody goofed in 01:12:26
24 making this formulation. 01:12:31

25 Q Well, couldn't it be that the inclusion of the 01:12:33

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1 word "semiautomatic" gets a more accurate feeling for 01:12:36
2 people's views on assault weapons because people, 01:12:45
3 without seeing that word, might believe that the word -- 01:12:49
4 the term "assault rifles" means "machine guns"; right? 01:12:53
5 MR. CHANG: Objection; calls for speculation. 01:12:56
6 THE WITNESS: Yeah, but we -- we went through a 01:12:59
7 ten-year period of assault weapon ban, so I think 01:13:01
8 people are -- I think people probably have the right 01:13:10
9 thing in mind if you just ask for: Should we go back to 01:13:12
10 banning assault weapons the way we did for ten years, is 01:13:16
11 the way -- would have been a better phrasing, I think. 01:13:20
12 BY MR. BRADY: 01:13:24
13 Q And you think that people with that question 01:13:24
14 would not have the confusion about whether we are 01:13:27
15 talking about semiautomatic or fully automatic rifles? 01:13:29
16 A I mean, you know, anything's always possible. 01:13:34
17 I'm just saying that it's not as though we are asking 01:13:39
18 about something that has never existed before. We 01:13:42
19 literally had a nationwide assault weapon ban for ten 01:13:45
20 years, so to that extent, people were -- were fully 01:13:48
21 informed and lived under the regime that you are asking 01:13:56
22 about, so -- 01:13:59
23 Q But that would only be a minority of gun owners, 01:14:00
24 according to your opinion -- right? -- that would even 01:14:03
25 care about knowing the definition; right? And here we 01:14:05

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1 are talking -- this is referring to the population as a 01:14:08
2 whole; right? 01:14:12
3 A Yeah. Yeah. 01:14:12
4 MR. CHANG: Could you repeat the question. 01:14:15
5 MR. BRADY: Yeah. 01:14:17
6 Q This refers -- this is asking the population as a 01:14:18
7 whole about their views on assault weapons; correct? 01:14:23
8 A Yes. 01:14:26
9 Q Your position was that people would know the term 01:14:26
10 "assault weapon" -- would be familiar with it because of 01:14:29
11 the previous federal law that we had for ten years? 01:14:31
12 A Yeah. 01:14:33
13 Q But your previous testimony and your report 01:14:33
14 indicates that only a minority of gun owners even owned 01:14:38
15 firearms that would be considered assault weapons; 01:14:42
16 correct? 01:14:44
17 A Yeah. 01:14:44
18 Q So why would somebody who doesn't even own or 01:14:46
19 want to own an assault weapon bother with understanding 01:14:49
20 what the definition of one is? 01:14:54
21 MR. CHANG: Objection; calls for speculation. 01:14:56
22 THE WITNESS: Yeah, I mean, I assume that people 01:14:58
23 who, you know, are -- are opposed to, you know, broader 01:15:06
24 gun usage and prevalence are probably against having 01:15:18
25 assault rifles around. 01:15:27

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1 But, you know, my only point is, when I read that 01:15:30
2 question, I thought, Oh, this -- this really is going to 01:15:37
3 confuse people into thinking, Are you in favor of a ban 01:15:42
4 on semiautomatic guns which we are going to call assault 01:15:49
5 rifles? As opposed to, Are you -- are you in favor of 01:15:53
6 banning a subset of semiautomatic guns which we are 01:15:58
7 going to call assault rifles? 01:16:01
8 BY MR. BRADY: 01:16:03
9 Q And my question is: Couldn't the same concern 01:16:03
10 about people misunderstanding the -- the question go the 01:16:08
11 other way when it just says "assault weapon" or just 01:16:12
12 says "assault rifle," and people responding might be 01:16:16
13 confused that the -- the poll is about machine guns and 01:16:19
14 not semiautomatic rifles? 01:16:22
15 A Yeah, I mean -- 01:16:24
16 MR. CHANG: Objection; calls for speculation. 01:16:26
17 THE WITNESS: I think -- I think the -- the more 01:16:27
18 likely problem is -- is -- with this result -- 01:16:31
19 BY MR. BRADY: 01:16:38
20 Q Why? 01:16:38
21 A For the reason that I said; that -- that we -- we 01:16:38
22 did live under a national regime of an assault weapon 01:16:44
23 ban, so the question is really asking, Do you want to go 01:16:49
24 back to the way things were, you know, before 2004? And 01:16:52
25 that's what I think the New York Times and Pew and the 01:16:59

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1 others that I cited concluded, and this one is sort of 01:17:03
2 suggesting, you know, if you think we should be getting 01:17:09
3 rid of semiautomatic guns more broadly, then -- then, 01:17:14
4 you know, there seems not to be the same level of 01:17:20
5 support for that. 01:17:24

6 Q Have you seen any data or research that suggests 01:17:25
7 that the American public has a good understanding of 01:17:31
8 what the term "assault weapon" or "assault rifle" means? 01:17:34

9 A I mean, obviously it's challenging for the public 01:17:41
10 to know the -- the details of -- of these laws, but -- 01:17:47
11 but, you know, in broad terms, you would think that they 01:17:50
12 would have -- at least have an understanding of the 01:17:54
13 federal assault weapon ban and -- 01:17:56

14 Q Even if very few people, relatively speaking to 01:17:58
15 the population, owned such firearms, according to you in 01:18:03
16 your report? 01:18:07

17 Why would somebody learn the definition of 01:18:09
18 "assault weapon" if they have no desire to own one? 01:18:11

19 MR. CHANG: Objection; calls for speculation. 01:18:16

20 THE WITNESS: Yeah. Yeah. Right, and so we are 01:18:23
21 not wholly disagreeing that there can be confusion about 01:18:25
22 this. I'm just saying that, by asking the question like 01:18:31
23 this, I think it confused it in one way, and you are, 01:18:35
24 you know, saying, Well, maybe if they didn't ask it like 01:18:41
25 this, it's confusing it the other way. I 01:18:45

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1 think that's -- I think that's a fair characterization. 01:18:48

2 BY MR. BRADY: 01:18:50

3 Q But Professor Kleck cites data showing this 01:18:50

4 confusion in his report. It is a January 2013 national 01:18:56

5 survey -- he cites it as Reason-Rupe, 2013 -- that found 01:19:02

6 the people surveyed -- when asked to describe an assault 01:19:11

7 weapon, 29 percent of the respondents stated that it was 01:19:17

8 an automatic weapon. 01:19:21

9 Do you have any reason to dispute that finding? 01:19:24

10 A Yeah, I mean, I can't really vouch for it without 01:19:27

11 looking at it, but I'm -- I'm sure some people, you 01:19:33

12 know, are -- are unclear what the definition of -- of 01:19:37

13 "assault rifles" are. 01:19:40

14 Q So you have never seen the Reason-Rupe study that 01:19:42

15 Professor Kleck cites in his report about the confusion 01:19:45

16 among survey takers about the term "assault weapon"? 01:19:49

17 A Yes, I have not seen that. 01:19:53

18 MR. BRADY: Okay. I think we are done. 01:19:56

19 THE VIDEOGRAPHER: We are going off the record, 01:19:57

20 and the time is 1:20. 01:20:07

21 (Lunch recess taken.) 01:20:08

22 ---o0o--- 02:21:23

23 02:21:23

24

25

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1 AFTERNOON SESSION 2:21 P.M. 02:21:23

2 02:21:23

3 THE VIDEOGRAPHER: We are now going back on the 02:21:28

4 record, and the time is 2:21. 02:21:29

5 BY MR. BRADY: 02:21:31

6 Q So before we went off for our lunch break, we 02:21:33

7 were discussing the Gallup poll that poses the question: 02:21:37

8 Are you for or against laws which make it illegal to 02:21:44

9 manufacture, sell, or possess semiautomatic guns known 02:21:47

10 as "assault rifles." 02:21:52

11 A Yeah. 02:21:53

12 Q And correct me if I'm wrong, but you believe that 02:21:53

13 the word "semiautomatic" might bias this sample in favor 02:21:58

14 of opposing such a law because they would think that 02:22:04

15 perhaps it meant semiautomatic guns in general; is that 02:22:11

16 accurate? 02:22:17

17 A I mean, that -- that was the concern that I had; 02:22:17

18 that people would look at that and say -- what is that 02:22:20

19 on, page 4 or something? 02:22:24

20 Q 7. Sorry. 02:22:31

21 A 7. 7. 02:22:33

22 I was afraid that people would look at it and 02:22:35

23 say -- 02:22:37

24 (Reporter interruption.) 02:22:37

25 THE WITNESS: Where it says: Sell or possess 02:22:47

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1 semiautomatic guns known as "assault rifles," I was 02:22:49
2 thinking that some people would look at that and say -- 02:22:54
3 say, in their mind, that this is -- do you think it 02:23:01
4 would be a good idea to make it illegal to possess 02:23:07
5 semiautomatic guns? And -- and so the -- it wasn't -- 02:23:10
6 it wasn't clear to me that people would -- would -- 02:23:18
7 would interpret it as semiautomatic guns, limited to 02:23:23
8 what we are calling assault rifles. 02:23:28

9 Q And is it fair to say that you do not have the 02:23:30
10 same concern about a question -- the question's accuracy 02:23:34
11 when it omits the word "semiautomatic" and just says 02:23:44
12 "assault weapons"? 02:23:48

13 Is that fair to say? 02:23:48

14 A You know, it -- it does -- it does seem that, in 02:23:50
15 the Gallup poll, you do have evidence that the phrasing 02:24:00
16 matters, and -- and so if you look at the -- you know, 02:24:04
17 the next page, it says: Do you favor laws banning the 02:24:09
18 sale of semiautomatic weapons such as the AR-15? And 02:24:15
19 there it's clear they are talking about, you know, a 02:24:20
20 specific assault weapon, and they are -- you know, a 02:24:23
21 substantial majority favors getting rid of those 02:24:28
22 weapons. 02:24:33

23 So I think -- I think when the question is asked 02:24:33
24 correctly, people say, yeah, of course, we shouldn't 02:24:35
25 have these in -- in civilian use. 02:24:40

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1 Q And you think that non- -- the nongun-owning 02:24:48
2 public has a good understanding of what a semiautomatic 02:25:11
3 AR-15 is? 02:25:16

4 A You know, I think what they are thinking is: I 02:25:17
5 saw what happened at Newtown and -- and these other 02:25:21
6 places, and, you know, no one needs a weapon like that 02:25:25
7 outside the military. You know, maybe police, but 02:25:30
8 certainly not your average citizen walking down the 02:25:37
9 street. 02:25:40

10 So if you tell me exactly what it is, I can tell 02:25:42
11 you that that shouldn't be there and that it would be 02:25:45
12 effective to get rid of these. It would improve things. 02:25:48
13 So I think most people have a two-part view. They 02:25:53
14 should be banned, and it would help if they would be 02:25:56
15 banned, and the Gallup poll actually supports that. 02:25:59

16 Q Have you heard of the Princeton Survey Research 02:26:01
17 Associates International? 02:26:11

18 A No. 02:26:11

19 Q So that's not a group that's familiar to you 02:26:11
20 as -- in the -- in the field of research? 02:26:16

21 A Yeah, I don't -- I haven't heard of it. 02:26:19

22 MR. BRADY: 11? 12. Okay. Mark as Exhibit 12. 02:26:32

23 (Exhibit 12 was marked for 02:26:36

24 identification by the Court Reporter.) 02:26:39

25 MR. BRADY: Give you one, Peter. 02:26:39

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1 MR. CHANG: Thanks. 02:26:40

2 BY MR. BRADY: 02:26:41

3 Q On the cover page, this report says it was -- it 02:26:41

4 was released on January 30th, 2013. It was a poll that 02:26:47

5 interviewed a thousand adults via phone with 228 02:26:52

6 respondents. 02:26:59

7 Is -- is that a good response rate? I guess, 02:27:02

8 what would that be, 22.8 percent? I think even I could 02:27:08

9 do that math, or am I wrong on 22.8 percent? 02:27:10

10 A Yeah, you know, I don't think that's what they 02:27:13

11 are saying there. 02:27:20

12 Q Okay. 02:27:21

13 A I think what they are saying is that they 02:27:21

14 interviewed a thousand adults using phones and then -- 02:27:23

15 Q I got it. You're right. 02:27:28

16 A -- 228 -- 02:27:30

17 Q Okay. You're right. They didn't include the 02:27:32

18 number of -- okay. So they have a margin-of-sampling 02:27:34

19 error that is more or less 3.8 percent? 02:27:36

20 What does that mean? 02:27:38

21 A You know, the -- the bigger your number of 02:27:39

22 respondents, the tighter the -- the sampling error will 02:27:44

23 be. 02:27:49

24 So if you -- you know, this -- this, I think, was 02:27:49

25 interviewing 1,228, and for whatever number you are 02:27:54

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1 interviewing, it defines what the sampling error is, 02:28:00
2 and -- and as that number grows, the sampling error 02:28:07
3 will -- will shrink. So, essentially, it's -- it's sort 02:28:10
4 of saying, you know, if -- if we are telling you it's 02:28:14
5 50 -- 50 percent, it could be, you know, with a high 02:28:20
6 degree of confidence, within 3.8 on either side of 50, 02:28:25
7 and that's the -- the sampling error. 02:28:31

8 So it's -- in statistics, you are always trying 02:28:35
9 to think of a confidence interval that would capture the 02:28:37
10 true underlying percentage, and this is telling you 02:28:42
11 how -- how big that confidence interval would be. 02:28:46

12 Q Got it. 02:28:49

13 So like you said, if 50 percent of people say one 02:28:49
14 thing, then it's either they believe 53.8 percent or 02:28:52
15 down to what -- would that be, 48.2 or 47.2? Sorry, 02:28:58
16 I'm -- 02:29:04

17 A No. It would be 45.2. 02:29:05

18 Q 45.2. Okay. Okay. 02:29:07

19 A 46.2. 46.2. 02:29:11

20 Q Okay. 02:29:14

21 A Yeah. 02:29:14

22 Q All right. Could you turn to page 10, please. 02:29:16

23 A Okay. 02:29:34

24 Q Do you see -- oh, yeah, page 10, sorry. 02:29:34

25 A Yeah. 02:29:35

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1 Q Do you see Question 36? 02:29:35

2 A Mm-hmm. 02:29:41

3 Q And the question is: Do you think people should 02:29:42

4 be prohibited from owning assault weapons, or should 02:29:46

5 people be allowed to own them? 02:29:48

6 Do you see how many people responded: Prohibited 02:29:55

7 from owning them? 02:29:58

8 A Yes. 02:29:59

9 Q What percentage is that? 02:29:59

10 A 44. 02:30:00

11 Q And allowed to own assault weapons, what 02:30:00

12 percentage is that? 02:30:04

13 A Says 51. 02:30:04

14 Q 51. 02:30:08

15 So majority of people in this poll believe that 02:30:08

16 people should be allowed to own assault weapons; is that 02:30:14

17 accurate? 02:30:17

18 A Right. 02:30:18

19 Although, you do have to remember, this is -- 02:30:22

20 this is, you know, a libertarian group that they are 02:30:24

21 interviewing, so libertarians are more -- are more 02:30:26

22 supportive of the idea that you should be allowed to 02:30:30

23 have anything, really. They probably would have given 02:30:37

24 the same numbers on, you know, should heroin be legal. 02:30:40

25 Q From -- from where are you deriving the 02:30:42

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1 information that this is a libertarian entity? 02:30:47

2 A Reason.com is -- is a libertarian outfit. 02:30:49

3 Q Do you know whether Princeton Survey Research 02:30:56

4 Associates International is a libertarian entity? 02:31:00

5 A No. 02:31:03

6 Q That's the entity that conducted the poll; right? 02:31:03

7 A Right, but I'm -- I'm just asking if there -- if 02:31:05

8 they are interviewing, you know, Reason.com viewers 02:31:13

9 and -- and members, that would not be a -- you know, a 02:31:20

10 valid population sample. 02:31:26

11 Q And if the New York Times is asking the questions 02:31:29

12 about assault weapons to New York Times readers, would 02:31:35

13 that be biased the other way, perhaps? 02:31:39

14 A That -- that would be, but the New York Times 02:31:41

15 thing specifically says it was a nationally 02:31:44

16 representative sample, so -- so they were -- they were 02:31:46

17 trying to capture not the views of one particular group 02:31:50

18 but, rather, the entire population. 02:31:55

19 Q So on -- on the first page of this report, it 02:31:58

20 says: For more methodological information, please 02:32:01

21 visit, and it gives a website. 02:32:04

22 A Yeah. 02:32:08

23 Q So you would be able to go review the 02:32:08

24 methodology, conceivably, according to them; right? 02:32:14

25 A Yes. 02:32:20

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1 Q And if you were to review the methodology and 02:32:21
2 learn that they used a representative sample of the 02:32:25
3 nation and not just Reason.com readership -- 02:32:31
4 A Yeah. 02:32:35
5 Q -- would you give more credence to this 02:32:35
6 particular survey? 02:32:39
7 A Well, certainly it would -- it would be more 02:32:39
8 valid if -- you know, for -- for the discussion that we 02:32:46
9 are having if it is a nationally representative sample 02:32:50
10 as opposed to Reason.com readers and -- and users, 02:32:55
11 but -- but you would want to look at the methodology and 02:33:09
12 just figure out what's going on. It is -- it is also, 02:33:12
13 you know, a little bit older survey from, you know, 02:33:15
14 almost six years ago now, and -- and we have more recent 02:33:20
15 survey data. 02:33:23
16 Q What year did Sandy Hook -- the horrific shooting 02:33:24
17 in Sandy Hook take place, do you recall? 02:33:32
18 A December 2012. 02:33:35
19 Q Okay. So this was released on January 30, 2013; 02:33:38
20 right? 02:33:42
21 A Yeah. 02:33:42
22 Q And it was conducted from January 17th to the 02:33:42
23 21st of 2013; right? 02:33:48
24 A That's what it says, yeah. 02:33:51
25 Q So pretty much immediately following, arguably, 02:33:53

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1 the most horrific shooting in American history; right? 02:34:01

2 A Yeah. Yeah. 02:34:05

3 Q So wouldn't that bias the numbers downward -- 02:34:12

4 A Well -- 02:34:12

5 Q -- as far as support for assault weapons? 02:34:16

6 A Yeah, but I -- again, that makes me -- 02:34:18

7 MR. CHANG: Objection; calls for speculation. 02:34:23

8 BY MR. BRADY: 02:34:26

9 Q In your expertise -- 02:34:26

10 A Mm-hmm. 02:34:26

11 Q -- as far as considering variables, after a 02:34:29

12 major, horrific, shocking-to-the-conscious -- conscience 02:34:32

13 incident like Sandy Hook, would that, in your 02:34:38

14 experience, tend to affect people's views on matters 02:34:42

15 related to such an incident? 02:34:47

16 A You know, it's -- it's hard to answer the 02:34:50

17 question in the abstract, but I do think mass shootings 02:34:54

18 stir the pot when it comes to views about -- about guns 02:34:59

19 in general, both -- both ways, but... 02:35:05

20 Q Fair enough. 02:35:08

21 So if you look at the next question on page 10 -- 02:35:14

22 A Yeah. 02:35:14

23 Q -- of Exhibit 12 -- 02:35:25

24 A Yeah. 02:35:29

25 Q -- it says: In just a few words, how would you 02:35:29

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1 describe an assault weapon? And it has in a 02:35:34
2 parenthetical the word "open." 02:35:40
3 What does that mean -- what do you understand 02:35:42
4 that to mean? 02:35:43
5 A I mean, I think what that means is -- and I'm 02:35:44
6 not -- and I'm not entirely sure, but I think what it 02:35:56
7 means is that they didn't prompt them; that they just 02:35:58
8 let them offer their thought. 02:36:02
9 Q Okay. Do you see what the No. 1 description of 02:36:04
10 the term "assault weapon" is? 02:36:10
11 A Yeah. 02:36:11
12 Q And what is that? 02:36:16
13 A It says "automatic weapon." 02:36:17
14 Q And what percentage of people believe it was -- 02:36:19
15 an assault weapon is an automatic weapon? 02:36:22
16 MR. CHANG: Objection -- 02:36:25
17 BY MR. BRADY: 02:36:26
18 Q According to this? 02:36:27
19 MR. CHANG: -- lacks foundation and misstates the 02:36:30
20 question. 02:36:35
21 MR. BRADY: I'll re-ask the question. 02:36:37
22 Q What does this survey say -- what percentage of 02:36:39
23 people does this survey say responded that they believe 02:36:42
24 an assault weapon is an automatic weapon? 02:36:47
25 MR. CHANG: Same objection: Lacks foundation. 02:36:50

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1 It mischaracterize the survey question. 02:36:52

2 THE WITNESS: Yeah, so it says: In just a few 02:36:55

3 words, how would you describe an assault weapon? And -- 02:37:03

4 does this add up to more than a hundred? Yeah, so -- so 02:37:09

5 I guess they are allowing people to write or offer a 02:37:13

6 number of different words, and it looks like 29 percent 02:37:20

7 included "automatic weapon." 02:37:27

8 BY MR. BRADY: 02:37:32

9 Q And 29 percent, with a sampling error of 02:37:33

10 3.8 percent, means -- according to this poll, the 02:37:42

11 respondents to this poll, shows that at least a quarter 02:37:49

12 of those responding believed assault weapons to be 02:37:55

13 automatic weapons. 02:37:58

14 Is that fair to say? 02:37:59

15 A Yeah. 02:38:01

16 Q Is that how you read this? 02:38:02

17 A Yeah, I think -- I think it's -- it's trying to 02:38:03

18 say, you know, whatever the percentage is, but let's say 02:38:08

19 a quarter were -- were characterizing an assault weapon 02:38:11

20 as something that's automatic weapon. 02:38:17

21 Q So if, potentially, a quarter of people are 02:38:21

22 mistakenly believing that an assault weapon is a machine 02:38:30

23 gun -- 02:38:30

24 A Mm-hmm. 02:38:30

25 Q -- wouldn't that introduce a lot of confusion 02:38:38

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1 into the survey numbers on this question of: Should 02:38:46
2 assault weapons be banned or not? 02:38:50

3 A The -- it -- it certainly shows that people -- or 02:38:52
4 at least a quarter of the people are -- are not clear 02:39:04
5 about what -- what the definition of "assault weapon" 02:39:10
6 is. 02:39:14

7 But it's still hard to know exactly how this is 02:39:16
8 influencing the -- the question; because, as you noted, 02:39:21
9 this was right after the Sandy Hook case, and people 02:39:26
10 might have just been thinking, you know, anything that 02:39:31
11 kills that many kids that quickly is something that I -- 02:39:34
12 I don't want and that the people in that category might 02:39:40
13 not have been clear whether the -- the gun was automatic 02:39:46
14 or semiautomatic, but they just wanted to get rid of 02:39:50
15 them. 02:39:53

16 So it depends a little bit on, you know, the -- 02:39:54
17 the way in which the -- the people who said this were -- 02:39:58
18 were voting and what their -- what their correct 02:40:04
19 interpretation might have been, but I think it does show 02:40:08
20 that the terminology is -- is not clear in people's 02:40:11
21 heads. 02:40:15

22 Q And if people don't have a firm understanding of 02:40:15
23 the item that they are being asked about -- and I'll 02:40:23
24 take -- harken you back to law school with the word 02:40:28
25 "widget" -- if somebody doesn't know necessarily what 02:40:31

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1 the widget is -- 02:40:35

2 A Yeah. 02:40:35

3 Q -- how can they accurately express their feelings 02:40:39

4 about the widget? 02:40:43

5 A Yeah, it's -- it's certainly a concern that 02:40:44

6 always exists in cases of survey research. Are you -- 02:40:54

7 are you getting the answer that is really telling you 02:41:02

8 what it is that you most want to know, or are you -- or 02:41:09

9 are you getting some filtered response in the sense of 02:41:12

10 filtered through a lens of imprecision and uncertainty, 02:41:21

11 and -- and I think you can see this issue coming up 02:41:29

12 in -- in almost all of the questions that we look at. 02:41:33

13 But, again, you don't know, on the basis of this, 02:41:42

14 exactly the way in which this -- this is -- is playing 02:41:48

15 out; because remember when I said that I thought the 02:41:52

16 Gallup survey was problematic where it -- it focused on 02:41:56

17 the semiautomatic question? You see a few people 02:42:02

18 were -- were sort of noting that as a defining 02:42:05

19 characteristic of an assault weapon, and so when you 02:42:09

20 tell people, "We are going to ban -- what do you think 02:42:14

21 about banning semiautomatic guns, such as assault 02:42:17

22 weapons?" I think there's a danger on that side as 02:42:21

23 well -- 02:42:26

24 Q Doesn't that prove the point I was making; that 02:42:28

25 if they are confused about the gun being a semiautomatic 02:42:31

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1 versus automatic, that if -- if they believed it was 02:42:39
2 semiautomatic, they might be okay with it versus if they 02:42:45
3 believed it was automatic, they would not; right? 02:42:49
4 MR. CHANG: Objection; calls for speculation, 02:42:51
5 argumentative. 02:42:56
6 THE WITNESS: Yeah, I mean, I think the -- the -- 02:42:56
7 the point that I'm trying to make is you do have these 02:43:00
8 potential ambiguities in the question, and the ambiguity 02:43:07
9 can -- can sort of completely undermine the question in 02:43:14
10 some cases, and -- and in -- in other cases, it just 02:43:18
11 renders this noise to the issue. 02:43:27
12 And so remember when we were looking at the 02:43:30
13 sporting rifle question and I said, Well, they -- they 02:43:34
14 were only allowed to choose from those factors? And 02:43:39
15 they are all very positive things, you know. You know, 02:43:42
16 Tell us the socially responsible and beneficial reasons 02:43:47
17 why you have an assault weapon, and so that's all you 02:43:50
18 can check. 02:43:54
19 But we don't know, A, if they would have checked 02:43:56
20 something else if you had given them some other choice 02:43:59
21 or whether they would really tell you what the reason 02:44:02
22 is, because nobody wants to say, "Yeah, I mean, I feel 02:44:05
23 like a feckless loser. That's why I want to get an 02:44:10
24 assault weapon," even though we know lots of people -- 02:44:15
25 including the Parkland shooter said, "I feel like a 02:44:18

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1 feckless loser, which is why I got my AR-15." So we 02:44:22
2 know that people do that. But if he had been asked 02:44:27
3 before, my guess is he wouldn't have said, "I got the 02:44:31
4 AR-15 because I'm a feckless loser," even though that 02:44:36
5 was the reason; that he did admit later in his, you 02:44:39
6 know, last written comments, almost, before he launched 02:44:43
7 this attack, that that was the true reason. 02:44:47

8 So there are two issues. One is: Will you get 02:44:50
9 the correct view from people; and, two, are they 02:44:55
10 understanding the question enough so that -- in the way 02:45:00
11 they have answered it, given the ambiguity and their 02:45:04
12 understanding of the question, that you are really 02:45:08
13 getting reasonable answers. 02:45:12

14 BY MR. BRADY: 02:45:15

15 Q What's the ambiguity in "How would you describe 02:45:15
16 an assault weapon?" 02:45:18

17 A Well, again, this was right after Sandy Hook, and 02:45:20
18 a lot of people might have thought, Oh my God, look at 02:45:28
19 the amount of killing there in a few minutes. That gun 02:45:33
20 really should not be here. And it must have been an 02:45:39
21 automatic weapon to do that kind of damage, so I'm 02:45:44
22 clearly against it, and I think it's an automatic 02:45:47
23 weapon. 02:45:51

24 So that person would have given the same answer 02:45:51
25 if you said, "Well, it actually is a semiautomatic 02:45:55

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1 weapon, and that's one of the reasons why we want to ban 02:45:58
2 it, because it's so dangerous, even though it is a 02:46:01
3 semiautomatic weapon." And the person said, "Oh, God. 02:46:05
4 Sure. That's the gun I want to get rid of." So in that 02:46:09
5 scenario, there's no problem. 02:46:12

6 Now, take another example of somebody who says, 02:46:13
7 "Yeah, I think automatic weapons are really bad, and I 02:46:19
8 think 'assault weapon' means 'automatic weapon,' but if 02:46:25
9 it's only the weapon that Adam Lanza used to kill all 02:46:29
10 these people, then it's not so bad." And, in that case, 02:46:34
11 it would -- it would be messing up the significance of 02:46:37
12 the survey because people would be giving a different 02:46:42
13 answer than they would have given if they really 02:46:48
14 understood. 02:46:51

15 And we -- we really don't know which of those two 02:46:51
16 is -- is true. Are -- are people being triggered by the 02:46:56
17 "assault weapon" language or the reference to 02:46:59
18 "semiautomatic" or "automatic"? So we are -- we do have 02:47:04
19 a sort of question about that. 02:47:09

20 But I do -- I do think it's relevant that when 02:47:11
21 they said "semiautomatic," they were skeptical about a 02:47:13
22 ban, but when they said "AR-15," they said, "Yeah, we 02:47:17
23 want to get rid of that." 02:47:20

24 And -- and the AR-15 is the weapon that was just 02:47:23
25 used in -- in the Sandy Hook shooting. So that -- 02:47:26

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1 that's the way I interpret it. 02:47:31

2 Q To be clear, that was not this survey; correct? 02:47:32

3 That was the Gallup survey that -- that made that -- 02:47:38

4 because -- because this survey -- Question 36 says that 02:47:43

5 a majority of people -- 51 percent said that people 02:47:50

6 should be allowed to own assault weapons. I believe you 02:47:57

7 were referring to Exhibit 7 -- 02:48:00

8 A Yeah. 02:48:02

9 Q -- when you -- correct? 02:48:03

10 A Yeah, well, I mean, I was referring to both of 02:48:05

11 them, and I just think -- 02:48:07

12 Q Well -- well, where in Exhibit 12 does it mention 02:48:12

13 "AR-15"? 02:48:16

14 A Well, yeah, you are right. When -- when I 02:48:17

15 mentioned "AR-15," I was referring to the Gallup -- 02:48:19

16 Q Yeah, I just want to be clear on that. 02:48:24

17 A Yeah. 02:48:24

18 Q I understand your general point is both of them 02:48:26

19 have this issue of the language -- 02:48:28

20 A Yeah. 02:48:30

21 Q -- but I wanted to be clear on -- okay. 02:48:30

22 Moving on to paragraph 43 of your report on 02:49:25

23 page 18? 02:49:29

24 A Moving on to which page of my report? 02:49:38

25 Q It's page 18. Paragraph 43 at the top of 18. 02:49:40

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1 A Okay. Okay. Got it. 02:49:52

2 Q So I guess you would need to read paragraph 42 to 02:50:01

3 understand what we are talking about when you say "the 02:50:05

4 nature of these threats" in paragraph 43. 02:50:14

5 So paragraph 42 talks about violent action 02:50:17

6 shootings occurring in a place of public use and mass 02:50:27

7 killings and attempted mass killings; right? 02:50:33

8 A Yes. 02:50:39

9 Q So those are the threats you are talking about in 02:50:40

10 paragraph 43 when you say: To better understand the 02:50:42

11 nature of these threats, the FBI, in 2014, initiated a 02:50:45

12 study of active shooter incidents. 02:50:48

13 Is that fair to say? 02:50:51

14 A Yes. 02:50:53

15 Q What is the definition that the FBI uses for 02:50:53

16 "active shooter"? 02:50:56

17 A So they talk about individuals who are going into 02:51:02

18 a public place to, you know, start shooting in a sort of 02:51:14

19 wanton fashion as opposed to simply someone who's, like, 02:51:21

20 going in to rob someone or is, you know, maybe in a 02:51:28

21 gang -- drug gang situation where they are trying to 02:51:38

22 kill the rival dealer in some way. 02:51:42

23 This is a situation where someone goes into a 02:51:47

24 public space and just starts shooting, you know, without 02:51:50

25 the -- the narrow intended target: They want to take 02:51:55

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1 out lots of people. 02:51:57

2 Q So your understanding is that, when you are 02:52:04

3 talking about "active shooter incidents" in your 02:52:06

4 discussion in paragraph 43 and, I believe, 44 means that 02:52:09

5 it's a mass shooter? 02:52:21

6 A Well, the idea is that that's -- that's the -- 02:52:26

7 the goal of the shooter. Sometimes they are stopped 02:52:32

8 more quickly, and so it has a slightly different 02:52:38

9 definition than some of the other numbers that are 02:52:45

10 quoted in -- in other parts of the report. 02:52:51

11 Q So "active shooter incidents" could include 02:52:52

12 incidents where nobody was actually shot? 02:52:57

13 A I don't know if there were any cases where nobody 02:53:00

14 was actually shot, but you would have to be trying to, 02:53:07

15 you know, un- -- unleash weaponry on -- on the public 02:53:12

16 in -- in some way to get included in there. 02:53:16

17 Because, essentially, what Obama was interested 02:53:20

18 in after Newton is: Is there any way to stop these 02:53:23

19 things? So they asked the FBI to look at these 02:53:28

20 episodes, and -- and the FBI concluded: Let's look at 02:53:31

21 all of the cases where somebody is trying to do what 02:53:36

22 Adam Lanza succeeded in doing, but we will look a little 02:53:42

23 bit more broadly because we also want to know: If 02:53:45

24 somebody tried to do what he did and was stopped, we 02:53:50

25 want to look at that case, as well as the successful 02:53:54

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1 ones, so that we might be able to figure out: We were 02:53:56
2 able to stop the killing in this case and we weren't in 02:54:00
3 this case, so what -- what's the difference between 02:54:03
4 those -- those two scenarios. 02:54:06
5 Q Moving on to paragraph 47 on page 19 of your 02:54:07
6 report, you state: Stopping a mass shooting is a 02:54:28
7 perilous endeavor, and untrained individuals likely 02:54:36
8 added more to the mayhem than they have been able to 02:54:40
9 curtail. 02:54:44
10 What do you mean by that? 02:54:47
11 A I think, you know, if you look at the broad sweep 02:54:48
12 of mass shootings, the -- the situations where untrained 02:54:59
13 individuals with guns inserted themselves caused more 02:55:07
14 problems than it -- it caused benefits. 02:55:13
15 Q There's papers saying that, that you have read? 02:55:17
16 A I mean, that -- that's sort of a conclusion I've 02:55:22
17 been reaching based on my research in -- in this arena. 02:55:32
18 Q Research of what? 02:55:34
19 A Of, you know, mass shooting events where 02:55:35
20 untrained individuals tried to inject themselves into 02:55:41
21 the -- into the situation. 02:55:46
22 Q And "they added more to the mayhem." 02:55:50
23 What does that mean in your -- what are you 02:55:54
24 trying to say with "they added more to the mayhem"? 02:55:57
25 They caused more casualties? 02:56:02

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1 A Yeah, caused more casualties, got in the way of 02:56:04
2 the police, you know, led -- led to more deaths, just 02:56:08
3 complicated the task of law enforcement. So, in other 02:56:14
4 words, it was socially harmful rather than socially 02:56:25
5 beneficial. 02:56:27

6 And you get -- you know, there are some cases 02:56:28
7 where they played a good role; some where they screwed 02:56:29
8 things up, and my guess is, in the broad sweep of 02:56:32
9 things, the examples of where they have hurt are -- are 02:56:35
10 greater than the examples of where they have helped. 02:56:40

11 Q Why would that be your guess? 02:56:42

12 A Again, just -- this is something I've been 02:56:44
13 researching, and that's the -- you know, my -- my 02:56:47
14 current working hypothesis. 02:56:52

15 Q So what does -- what does that research entail? 02:56:54
16 Have you been reading accounts of this sort of 02:56:57
17 phenomenon? 02:57:01

18 A Yeah. Yeah. So you just try to do what the FBI 02:57:02
19 is doing and see if you could figure out when these 02:57:07
20 scenarios start. Does something good happen or does 02:57:10
21 something bad happen? And it turns out, most of the 02:57:16
22 time when something good happens, it's -- it's a pretty 02:57:24
23 highly trained person, and for the untrained people, 02:57:27
24 it -- it -- it tends to be bad things happening more 02:57:29
25 than good things happening. 02:57:32

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1 Q You haven't compiled any of your research into a 02:57:35
2 paper on that subject, have you? 02:57:50

3 A I'm working on that right now, but I -- I -- I 02:57:52
4 haven't finished that yet to the point where -- where 02:57:55
5 it's ready to go public. 02:58:00

6 Q Speaking of, in the next line, you say: The best 02:58:03
7 evidence suggests that increased gun carrying in the 02:58:06
8 population leads to higher rates of violent crime. 02:58:09

9 A Mm-hmm. 02:58:12

10 Q You say, the next sentence: These points are 02:58:12
11 spelled out in detail in my work estimating the impact 02:58:16
12 of laws allowing citizens to carry concealed handguns on 02:58:19
13 crime. 02:58:23

14 A Mm-hmm. 02:58:24

15 Q Is that the same paper that you relied on in the 02:58:24
16 Flanagan v Becerra matter? 02:58:33

17 A It's -- I -- I -- I tend to take a long time to 02:58:37
18 write papers, I hate to say, so it is the same paper in 02:58:43
19 the sense that, you know, I released a version of it, 02:58:47
20 but this one cited here is the latest version, which is 02:58:52
21 2018, and the Flanagan version was, you know, an earlier 02:58:56
22 iteration of this -- of this paper. 02:59:01

23 Q So was the Flanagan iteration ever published? 02:59:03

24 A No. No. No. This -- this has been released as 02:59:07
25 a National Bureau of Economic Research working paper, 02:59:13

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1 but I literally just finished this November 2018, so 02:59:17
2 hasn't been published beyond release as a National 02:59:26
3 Bureau of Economic Research working paper. 02:59:32

4 Q Has it been peer-reviewed? 02:59:33

5 A It's under peer review right now. 02:59:35

6 Q How long have you been working on that paper for? 02:59:39

7 A A long time. A long time. I think I have my 02:59:45
8 syllabus here, and I can tell you -- I mean, my CV, but 02:59:57
9 it's a long time. Should be on this page somewhere. 03:00:09

10 Okay. So you can see, on page 7 of my CV, it 03:00:48
11 says "The Impact of Right to Carry Laws and the NRC 03:00:53
12 Report," and I published something on that in fall of 03:00:57
13 2011, and, at that point, I started working on this 03:01:01
14 paper, and so I literally worked on this from about 2011 03:01:09
15 until, you know, a few weeks ago. 03:01:16

16 Q So seven years? 03:01:18

17 A Yeah. 03:01:27

18 Q Is that normal for a working paper? 03:01:27

19 A You know, my -- my mentor and co-author, Jim 03:01:32
20 Heckman, who won the Nobel Prize in 2000, was the only 03:01:36
21 guy I know who consistently took longer on papers than I 03:01:42
22 do, but I think he -- he sort of influenced me, and like 03:01:45
23 one of his greatest papers, he took ten years on, so 03:01:51
24 people vary in this dimension, and -- and Heckman and I 03:01:58
25 are on the slow and tedious working out all the issues 03:02:02

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1 end of the spectrum, and some of my co-authors are, you 03:02:10
2 know, dramatically quicker on these things. 03:02:13

3 Q What -- what, precisely, is slowing you down? 03:02:16
4 More recent data or unanswered questions? What -- 03:02:22
5 what -- 03:02:27

6 A Yeah, I mean, if you look at this latest version, 03:02:27
7 this really is the -- the best, most comprehensive 03:02:31
8 assessment of -- of the data that -- that exists, in my 03:02:36
9 view, but it's taken a long time to pull it all 03:02:42
10 together. 03:02:48

11 The -- there -- there are all these 03:02:48
12 methodological issues that we started off today talking 03:02:52
13 about as to what is the best way to do these analyses, 03:02:54
14 and so I was trying to do it in all of the acceptable 03:02:58
15 approaches. 03:03:03

16 And for some of those things -- you know, I had 03:03:06
17 never heard of synthetic controls when I first started 03:03:09
18 this process, and now there's going to be a big 03:03:13
19 conference at MIT in a few months where the inventor of 03:03:18
20 synthetic controls asked me to present this paper 03:03:24
21 because he saw it and said, you know, this is such a 03:03:26
22 great illustration of the use of his technique to 03:03:29
23 establish the causal impact of a law that he asked me to 03:03:34
24 present the paper at the conference. 03:03:39

25 But it took quite some time to both understand 03:03:41

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1 and then implement this technique because it had never 03:03:47
2 been implemented in -- in the same way I had to do here. 03:03:51

3 Essentially, synthetic controls is trying to 03:03:57
4 say -- trying to help us understand: If this state had 03:04:00
5 not adopted right-to-carry laws, what would have 03:04:04
6 happened to crime? And we know what actually did happen 03:04:09
7 to crime after they adopted, so we are trying to 03:04:12
8 understand that counterfactual. 03:04:15

9 And my paper was the first one I was aware of 03:04:18
10 that ever tried to apply that to so many different 03:04:21
11 states, so it was a complicated thing and took -- took a 03:04:24
12 while to ultimately nail down. 03:04:30

13 And then once we got these very strong 03:04:34
14 conclusions that right-to-carry laws increase violent 03:04:37
15 crime, a lot of people said, "Well, do you have anything 03:04:45
16 to say about the mechanisms by which people carried 03:04:48
17 around handguns causes violent crime to go up?" So 03:04:51
18 that's a whole other inquiry to understand the 03:04:56
19 mechanisms. So that took a -- you know, in a sense, I 03:05:01
20 might have been better off if I had just written the 03:05:02
21 first paper and said, you know, here's the bottom-line 03:05:06
22 conclusion: Right-to-carry laws increase violent crime, 03:05:08
23 and I could have done that some time ago. 03:05:13

24 But I also wanted to have a lot of work, and this 03:05:15
25 is what I've been spending the last X years on: What 03:05:19

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1 element of social change in the wake of the adoption of 03:05:23
2 right-to-carry law actually leads to this elevation of 03:05:32
3 violent crime. So -- so that made it a much more 03:05:36
4 complicated -- like, for example, John -- John Lott 03:05:39
5 wrote a paper on this, and -- and he never had anything 03:05:42
6 on that second question, but that's what I did in this 03:05:44
7 paper. 03:05:51

8 Q And that's taken you eight years, was it, or 03:05:51
9 seven years? Seven years? 03:05:56

10 A Yeah, about seven years on this paper. Yeah. I 03:05:57
11 mean, I've been working on this topic for longer than 03:06:02
12 that, but this -- this paper has taken me about seven 03:06:05
13 years. 03:06:09

14 Q So in paragraph 48 of your report, you say: Even 03:06:09
15 well-intentioned interventions by permit holders 03:06:14
16 intending to stop a crime have elevated the crime count 03:06:17
17 when they ended up with the permit holder either being 03:06:21
18 killed by the criminal or shooting an innocent party by 03:06:23
19 mistake. 03:06:27

20 It seems like, in paragraph 47, you are saying 03:06:28
21 that they may -- that that may be an issue, and, here, 03:06:36
22 it sounds like you are unequivocally saying that they 03:06:40
23 have elevated the crime count? 03:06:47

24 A Well, we know they have in certain cases, and the 03:06:48
25 only real question is, you know, sometimes guns help, 03:06:52

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1 sometimes they hurt, and we are just trying to figure 03:06:57

2 out: Did the help -- the cases where they help outweigh 03:07:00

3 the cases where they hurt, or did the cases where they 03:07:04

4 hurt outweigh the cases where they helped? 03:07:07

5 Q But where -- where -- what do you cite -- what's 03:07:09

6 your basis for saying that "permit holders intending to 03:07:11

7 stop a crime have elevated the crime count"? 03:07:16

8 A Well, I mean, I cite a lot of those in -- in this 03:07:18

9 paper, this MBR working paper. 03:07:22

10 But, you know, it happens very commonly. Just, 03:07:26

11 you know, few days ago, actually, a guy was trying to 03:07:28

12 help. He was the good guy with a gun and -- and he was 03:07:33

13 shot and killed, so it's, you know, clearly elevating 03:07:37

14 the crime count that he intervened, and, you know, then 03:07:44

15 there are cases where something good happens and we are 03:07:51

16 just trying to figure out, you, know how -- how 03:07:55

17 frequently are -- are the good interventions achieving 03:07:58

18 some positive social outcome and how frequently are the 03:08:04

19 bad interventions just imposing some unfortunate 03:08:07

20 consequence. 03:08:12

21 Q Are you still only aware of one incident in which 03:08:15

22 a private citizen, other than armed security, stopped a 03:08:27

23 shooter, as you state in paragraph 48 on page 20? 03:08:31

24 A Now, where are we? 03:08:34

25 Q Page 20, the end of paragraph 48, you indicate 03:08:38

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1 that out of the 160 active shooter incidents in the FBI 03:08:44
2 report, you are only aware of one private citizen 03:08:50
3 intervening with a gun successfully in any of those 03:08:54
4 instances. 03:08:58

5 Is that still your understanding? 03:08:59

6 A Yes. 03:09:01

7 Q Is that limited to just the 160 active shooter 03:09:03
8 incidents in the FBI report? 03:09:07

9 A Yeah, they -- they looked at all of the active 03:09:09
10 shooter incidents over that 2000-to-2013, I think it 03:09:13
11 was, period. 03:09:19

12 Q So there couldn't be any other 03:09:19
13 good-guy-with-a-gun shootings during that time period 03:09:23
14 that are not captured here? 03:09:26

15 A I mean, it's possible that they -- they missed 03:09:28
16 something, but at least for the 160 active shooter cases 03:09:34
17 they looked at, there -- there was, essentially, no one 03:09:40
18 who -- who played a positive role unless they were 03:09:48
19 trained police or security or active-duty military. 03:09:52

20 Q Have you looked at anything other than the FBI 03:09:59
21 report to make that conclusion? 03:10:03

22 A Well, here, I was just -- I was just sort of 03:10:04
23 quoting what the FBI found in their study. You know, if 03:10:11
24 there's a case that they missed, I'm -- I'm happy to 03:10:16
25 look at that as well, obviously. 03:10:22

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1 Q Did you consider John Lott's data about citizens 03:10:24
2 intervening -- armed citizens intervening in criminal 03:10:34
3 shootings? 03:10:40

4 A I mean, I usually don't think I'm going to get 03:10:40
5 much help from John, and, you know, he -- he has badly 03:10:49
6 mischaracterized some -- some of these events at times, 03:10:56
7 so, you know, if -- if I am reading a paper of his, 03:11:05
8 I'll -- I'll certainly take into account what he says, 03:11:08
9 but I don't -- I don't generally think that John is 03:11:17
10 going to have better information than the FBI on these 03:11:20
11 questions. 03:11:26

12 Q So your answer is no, you do not look at 03:11:29
13 Professor Lott's report on civilians with firearms 03:11:32
14 intervening in shootings -- 03:11:40

15 A I mean -- 03:11:42

16 Q -- in making this opinion? 03:11:44

17 A I mean, are you referring to a particular paper? 03:11:45

18 Q Professor Lott has published some information 03:11:52
19 through his organization about citizens intervening with 03:12:00
20 firearms in a positive way. 03:12:06

21 A Mm-hmm. 03:12:06

22 Q I'm just wondering if you have seen that. 03:12:08

23 A I mean, I've seen, you know, it seems like an 03:12:10
24 endless amount of work by John, and, again, here, we are 03:12:17
25 talking about active shooter incidents, and so that is a 03:12:22

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1 little different from, you know, someone defending 03:12:27
2 themselves in the home, and -- and I think most of 03:12:30
3 John's discussions have -- have been around home defense 03:12:36
4 as opposed to the -- the FBI cases that we are 03:12:39
5 discussing in this scenario. 03:12:47
6 Q Okay. Last question, and then I believe we have 03:12:48
7 to take a break because the video is about to run out. 03:12:50
8 In paragraph 49 -- 03:12:52
9 A Yeah. 03:12:52
10 Q -- you say: The notion of arming the populus to 03:12:53
11 stop public mass shootings must contend with the 03:12:58
12 consequences of increasing gun carrying. Here, the best 03:13:01
13 evidence shows that the increased gun carrying that 03:13:05
14 follows from state adoption of right-to-carry laws leads 03:13:07
15 to increases in violent crime. 03:13:10
16 Are you referring to your report again there? 03:13:14
17 A Yes. 03:13:16
18 Q Okay. Your -- your paper, your working paper? 03:13:16
19 A Yeah, the -- 03:13:20
20 Q Okay. 03:13:20
21 A -- the paper I cited there. 03:13:22
22 MR. BRADY: All right. We can go off the record 03:13:23
23 to change the video. 03:13:25
24 THE VIDEOGRAPHER: This now marks the end of disc 03:13:26
25 labeled No. 2 of the video deposition of 03:13:28

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1 John J. Donohue. 03:13:31

2 We are now going off the record, and the time is 03:13:34

3 3:13. 03:13:36

4 (Recess taken.) 03:13:37

5 THE VIDEOGRAPHER: This now marks the beginning 03:21:37

6 of disc labeled No. 3 of the video deposition of 03:21:41

7 John J. Donohue. 03:21:45

8 We are now going on the record, and the time is 03:21:47

9 3:21. 03:21:49

10 MR. BRADY: So we just took a break, and, 03:21:54

11 returning, Mr. Chang has indicated that 03:21:56

12 Professor Donohue would like to clarify an answer that 03:22:03

13 he made before the break. 03:22:06

14 Q So go ahead, Professor. 03:22:07

15 A Yeah, I just wanted to highlight the -- the point 03:22:09

16 where it says: The best evidence shows that the 03:22:11

17 increased gun carrying that follows from state adoption 03:22:14

18 of right-to-carry laws leads to increases in violent 03:22:16

19 crime. And then I give an estimate for what that is, 03:22:20

20 and the estimated 13 to 15 percent increase comes from 03:22:26

21 my paper, but when I said the best evidence suggests 03:22:30

22 crime increases, there are, you know, a number of other 03:22:34

23 papers which I cite in my paper that come to that same 03:22:38

24 conclusion. 03:22:47

25 Q Are there papers that come to the opposite 03:22:47

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1 conclusion? 03:22:49

2 A Yeah, and those are not the best evidence. 03:22:52

3 Q Why not? 03:22:54

4 A Largely from methodological shortcomings of a 03:22:55

5 variety. 03:23:08

6 Q What -- what sort of methodology did the reports 03:23:08

7 that agreed with you use? 03:23:11

8 MR. CHANG: Objection; argumentative. 03:23:12

9 THE WITNESS: So, for example, there -- there are 03:23:22

10 different methodologies, so we have a paper, for 03:23:29

11 example, done by Steve Durlauf and his co-authors that 03:23:36

12 uses a sort of sophisticated Bayesian econometric 03:23:41

13 approach, not the one that I used or John Lott used in 03:23:45

14 his work, and the conclusion from that study was that 03:23:48

15 violent crime rose pretty sharply in the wake of 03:23:54

16 right-to-carry adoption. 03:23:57

17 BY MR. BRADY: 03:23:59

18 Q Where on your list of the top five -- the 03:23:59

19 hierarchy of methodology is the Bayesian model? 03:24:04

20 A Let me look back at this. 03:24:09

21 Q We are looking at Exhibit 5. 03:24:15

22 A You know, this would probably be two or three, 03:24:21

23 depending on how you categorized it. 03:24:24

24 Q Okay. 03:24:29

25 A And -- and so that same answer would apply to 03:24:30

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1 my -- my paper, but also, you know, in -- in some -- in 03:24:34
2 some respects, most of the papers that I put into the, 03:24:45
3 you know, worth-looking-at category fall into -- on this 03:24:50
4 question of right-to-carry laws and crime fall into two 03:24:54
5 and three. 03:25:01

6 And so we have the Durlauf paper. We have the 03:25:01
7 paper that Gary Kleck said was the best paper where -- 03:25:06
8 while I was looking at state panel data, the paper that 03:25:12
9 Kleck thought was the best looked at individual city 03:25:17
10 data, and that paper concluded aggravated assault rose 03:25:19
11 substantially in the wake of right-to-carry adoption, 03:25:27
12 and -- and so that was, you know, the expert for your 03:25:32
13 side identifying what the single best paper was. 03:25:34

14 Q Okay. And so your -- your paper -- these papers 03:25:40
15 you are saying found an increase in crime with laxer 03:25:42
16 carry laws; right? 03:25:47

17 A Yes. 03:25:47

18 Q And in this paper, in looking at your report in 03:25:48
19 this matter, looking at page 46, paragraph 112, it is 03:25:53
20 also your opinion that there's evidence that the federal 03:26:05
21 assault weapons ban was effective in limiting criminal 03:26:08
22 use of assault weapons. 03:26:11

23 Is that your opinion? 03:26:12

24 A So we are on page -- wait, page 46? 03:26:13

25 Q 46, yes, sir. 03:26:18

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1 A Sorry, I went to paragraph 46. 03:26:20

2 Yes, I'm on -- 03:26:24

3 Q Paragraph 112? 03:26:25

4 A Got it. 03:26:28

5 Q It says: There's evidence that the federal 03:26:29

6 assault weapons ban was effective in limiting criminal 03:26:31

7 use of assault weapons; is that correct? 03:26:34

8 A Yes. 03:26:36

9 Q And that's your opinion? 03:26:36

10 A Yes, that is my opinion. 03:26:38

11 Q And what do you base that opinion on? 03:26:41

12 A Well, what I -- what I cite in my report here. 03:26:43

13 Q Okay. Well, the first thing you cite is the 03:26:50

14 Brady Center to Prevent Gun Violence. 03:26:53

15 Is that a normal source for researchers to 03:26:58

16 consider in evaluating gun laws? 03:27:05

17 A Is it a normal source? I mean, it's -- it does 03:27:09

18 provide evidence. 03:27:19

19 Q You are not concerned about the evidence being 03:27:19

20 biased? 03:27:21

21 A One -- one is always concerned about bias if -- 03:27:27

22 if, you know, it's -- it's one of the advocacy groups on 03:27:33

23 either side in this issue. 03:27:36

24 Q Do you know what sort of methodology the Brady 03:27:37

25 Center used in preparing this analysis? 03:27:41

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1 A Yeah, this -- this, as I note here, was trying to 03:27:42
2 look at the Bureau of Alcohol, Tobacco, and Firearms 03:27:51
3 trace data to see what was happening with the frequency 03:27:56
4 of use of these weapons. 03:28:03

5 Q And what were -- did they -- did this paper look 03:28:04
6 to anything other than ATF trace data, to your 03:28:09
7 knowledge? 03:28:12

8 A Well, it is, you know, trying to look at the 03:28:14
9 whole issue, but if -- if your question is, is it as 03:28:17
10 sophisticated as my paper on right to carry? No, of 03:28:21
11 course not. It's -- you know, I spent seven years on my 03:28:24
12 paper, and -- and this is a much more limited focus, 03:28:28
13 which is why I said there's evidence. I -- I didn't 03:28:32
14 say, you know, we have extremely strong reasons for 03:28:35
15 thinking right-to-carry laws increase violent crime. 03:28:41

16 Q I didn't ask whether it was, you know, comparable 03:28:44
17 to your study. 03:28:48

18 What I want to know is: How -- how reliable this 03:28:49
19 particular piece of evidence is, and do you know what 03:28:54
20 sort of methodology the Brady Center used in coming up 03:28:59
21 with this conclusion? 03:29:03

22 A Yeah, I know the basic methodology. 03:29:05

23 Q And what is that? 03:29:08

24 A You know, they were -- they were comparing 03:29:09
25 percentages across time and space and, you know, trying 03:29:12

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1 to identify if, on that broad level, you could see 03:29:20
2 changes in the trace data. 03:29:23

3 Q So would it be fair to say that in your hierarchy 03:29:25
4 of -- of determining the causal impact of law and 03:29:29
5 policies, the Brady Center's report would fall at No. 4 03:29:34
6 on your list? 03:29:39

7 If you could, keep that handy because -- 03:29:47

8 A Sure, sure, sure. 03:29:47

9 Q -- I might keep referring to that. 03:29:49

10 A Yeah. 03:29:51

11 Yeah, four or five. 03:29:52

12 Q So it's lower down on your preferred hierarchy of 03:29:53
13 good methodology; right? 03:29:56

14 A Yeah. I mean, in -- in general -- you know, if 03:29:58
15 you can do it at a higher level, that's great, but as we 03:30:04
16 saw, you know, I -- I did a two- or three-level study on 03:30:09
17 right-to-carry laws and -- and John Lott did a two- or 03:30:14
18 three-level study on right-to-carry laws, and, you know, 03:30:19
19 I spent a lot of time in my paper showing why I think 03:30:22
20 his turned out wrong, so it's not as though if you are 03:30:25
21 at the higher level you are home free. It's just that 03:30:29
22 you have a greater chance of ruling out confounding 03:30:33
23 factors if you are higher up in this hierarchy. 03:30:38

24 Q Understood. 03:30:41

25 So would you say that this study, the Brady 03:30:43

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1 study, primarily relied on the ATF trace data in 03:30:52

2 reaching its conclusion? 03:30:56

3 A You know what? I'd -- I'd have to look back to 03:30:58

4 make that particular categorization, but they -- they 03:31:03

5 certainly were relying on that data. 03:31:06

6 Q And is relying on ATF trace data for establishing 03:31:08

7 what sorts of guns are used in crimes a common use of 03:31:15

8 that data? 03:31:25

9 A You know, there -- there are a number of papers 03:31:25

10 that -- that have tried to use the -- the data in that 03:31:31

11 way. 03:31:35

12 Q To show what types of firearms are -- represent 03:31:35

13 what share of gun crime? 03:31:40

14 A Well, to try to draw links about illegal gun 03:31:43

15 usage. 03:31:53

16 MR. BRADY: Exhibit 13. 03:32:09

17 (Exhibit 13 was marked for 03:32:10

18 identification by the Court Reporter.) 03:32:10

19 MR. BRADY: Sorry, you will get that one. 03:32:12

20 THE WITNESS: Yeah. 03:32:13

21 BY MR. BRADY: 03:32:13

22 Q Is this the ATF report that the Brady report 03:32:16

23 relied on, the ATF trace data report? 03:32:21

24 A Take a look here. 03:32:28

25 MR. CHANG: Objection; calls for speculation, 03:32:37

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1 lacks foundation. 03:32:44

2 THE WITNESS: Yeah, I don't think this is what 03:32:52

3 they were looking at. 03:32:53

4 BY MR. BRADY: 03:32:54

5 Q Why do you not think that this is what they were 03:33:07

6 looking at? 03:33:09

7 A If you -- if you look at my citation, it says: 03:33:10

8 On target, the impact of the 1994 federal assault weapon 03:33:31

9 ban, March 2004 -- and so this is, you know, a document 03:33:36

10 from 2016, so it's -- you know, this would not have been 03:33:42

11 available to them at the time that they did this study. 03:33:48

12 Q So this is more recent ATF trace data? 03:33:53

13 A Yes. 03:33:56

14 Q Are you familiar with ATF trace data reports? 03:33:56

15 A Broadly. 03:33:59

16 Q So you have seen them before? 03:34:02

17 A Yes. 03:34:04

18 Q Do you have any doubt as to whether this is an 03:34:05

19 ATF firearm trace report? 03:34:08

20 A You know, I mean, if -- it certainly looks like 03:34:10

21 that. I mean, I -- I probably need to take a little 03:34:32

22 more time to figure out exactly what's going on here. 03:34:35

23 Q I mean, if you look at page 2 of Exhibit 12, it 03:34:37

24 says "ATF Firearms Trace Data" in big bright red 03:34:45

25 letters. 03:34:49

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1 A Yeah. 03:34:49

2 Q So is there any reason to believe that this is 03:34:50

3 not -- 03:34:53

4 MR. CHANG: Objection -- 03:34:55

5 BY MR. BRADY: 03:34:56

6 Q -- a more recent version of the 2004 ATF trace 03:34:57

7 report that the Brady Center relied on in its report? 03:35:02

8 MR. CHANG: Objection; misstates the -- the 03:35:05

9 wording on the document. 03:35:10

10 THE WITNESS: Yeah, I mean, the reason why I was 03:35:15

11 uncertain here was that they -- they were looking at 03:35:17

12 overall trace data, and this is for California, and so, 03:35:21

13 you know, this -- they were looking at overall trace 03:35:28

14 data. This is for California for a later period, and 03:35:31

15 that's where I was just, you know, getting cautious 03:35:34

16 about saying it was looking at the same data. 03:35:39

17 MR. BRADY: Got it. 03:35:41

18 Q Can you turn to page 2 of the document, please. 03:35:44

19 A Sure. 03:35:48

20 Q Can you read aloud subdivision 2 on that page? 03:35:48

21 A Yeah. 03:36:00

22 [Reading]: Firearms selected for tracing are not 03:36:03

23 chosen for purposes of determining which types, makes, 03:36:06

24 or models of firearms are used for illicit purposes. 03:36:10

25 The firearms selected do not constitute a random sample 03:36:16

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1 and should not be considered representative of the 03:36:20
2 larger universe of all firearms used by criminals or any 03:36:23
3 subset that have universe. 03:36:29

4 Q That's fine. 03:36:31

5 So if that same disclaimer is in the 2004 version 03:36:32
6 of ATF trace data that the Brady Center relied on, would 03:36:46
7 that make you question their conclusions in that report 03:36:52
8 that rely on ATF trace data to determine the types of 03:36:59
9 firearms that are used for illegal purposes? 03:37:07

10 A Well, not necessarily. 03:37:08

11 Q Why not? 03:37:15

12 A You know, it gets back to something that we were 03:37:15
13 talking about earlier where we were looking at the 03:37:19
14 downward trend in household prevalence of guns in the 03:37:26
15 U.S., and, you know, the -- I think it was Kleck or 03:37:35
16 someone who -- and perhaps English who said, you know, 03:37:42
17 people don't want to report that they are -- that they 03:37:46
18 have a gun, but they have been reporting it for 40 years 03:37:50
19 if they had a gun, so you would need to document that 03:37:55
20 something changed in a way to make it less accurate 03:37:59
21 today than it was previously. 03:38:03

22 And the same applies here, so this is saying we 03:38:06
23 may not give you a perfect percentage for the illicit 03:38:10
24 firearms, but if we see a change when assault weapon ban 03:38:16
25 goes into effect and then when it's -- when it's 03:38:21

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1 removed, it can still tell us something is changing 03:38:23

2 there in the way that the Brady Center highlighted. 03:38:28

3 So obviously with every caveat, you -- you want 03:38:33

4 to be cautious about it, but it -- it doesn't -- it 03:38:37

5 doesn't undermine the paper for the thing that we are 03:38:42

6 interested in, which is: Do we see a shift in the trace 03:38:46

7 data when an assault weapon ban gets imposed and then 03:38:50

8 when it gets eliminated. 03:38:55

9 Q So you would not be concerned if this disclaimer 03:38:57

10 was in the 2004 version that the Brady Center relied on 03:39:04

11 of ATF trace data? That wouldn't cause you concern 03:39:09

12 about the validity of the findings of the report? 03:39:13

13 A It depends on how you are trying to use the 03:39:17

14 report. In other words, if you are trying to say, I 03:39:23

15 have figured out the absolute percentage of guns used 03:39:26

16 for illicit purposes, then this report -- this caveat is 03:39:31

17 saying you -- you -- you can't do that. 03:39:35

18 But if you are saying, Did the imposition of the 03:39:40

19 assault weapon ban and then its ultimate removal 03:39:46

20 generate benign, in the first case, and then malign 03:39:52

21 changes, you still may be able to do that as long as the 03:39:56

22 infirmities in the trace data are constant over time, 03:40:04

23 because we're -- we're interested in the change, not the 03:40:07

24 level, and -- and so this is called a fixed effect. 03:40:08

25 If -- if there really is this fixed effect that 03:40:13

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1 operates over this whole period, we can essentially 03:40:17
2 ignore the fixed effect. It's telling us you're -- 03:40:19
3 you're not going to have a great estimate on the level 03:40:22
4 of illegal gun use, but take some confidence out of how 03:40:24
5 it moves, and if it moves that you have fewer assault 03:40:29
6 weapons when the ban goes into effect and more 03:40:32
7 afterwards, then that buttresses the conclusion that the 03:40:35
8 Brady Center reached in -- in this paper. 03:40:39
9 Q Do you know whether there's any fixed effect of 03:40:40
10 that nature in -- over the course of ATF trace data? 03:40:44
11 A That is my understanding. 03:40:49
12 Q That there is a fixed effect? 03:40:50
13 A Yeah. 03:40:51
14 Q Okay. Now, when you talk about the federal 03:40:52
15 assault weapon ban, what definition for "assault weapon" 03:41:18
16 are you using? 03:41:22
17 A So when I'm talking about the federal assault 03:41:25
18 weapon ban, I just mean the attributes of the 03:41:29
19 prohibition that was enacted by Congress in 1994. 03:41:37
20 Q And what are those? 03:41:41
21 A You know, the -- the entire constellation of, you 03:41:41
22 know, restrictions on certain weapons, ban on magazines 03:41:48
23 above ten, and so those are the two most important 03:41:54
24 elements of -- of the federal assault weapon ban. 03:42:00
25 Q So are you including your -- in your analysis 03:42:02

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1 that the assault weapons ban affected crime rates -- are 03:42:07

2 you including the magazine restriction -- the 03:42:13

3 large-capacity magazine restriction in that analysis? 03:42:18

4 A Yes. I'm -- I'm not able to separate out for my 03:42:21

5 analysis what the -- what the independent effect of the 03:42:30

6 magazine restriction is; although, you can -- you can 03:42:37

7 draw inferences on that question. 03:42:42

8 Q So it could be -- assuming you are right -- 03:42:46

9 A Mm-hmm. 03:42:46

10 Q -- your -- your analysis that the federal assault 03:42:55

11 weapons ban was effective in limiting criminal use of 03:42:58

12 assault weapons -- I'm sorry, let me strike that. 03:43:03

13 Assuming you are right that the federal ban 03:43:06

14 reduced crime, reduced deaths -- 03:43:11

15 A Mm-hmm. 03:43:11

16 Q -- and that is your opinion; right? 03:43:21

17 A That's what the -- the best evidence seems to 03:43:22

18 suggest. 03:43:25

19 Q Okay. Assuming that that is, indeed, the case -- 03:43:26

20 A Yeah. 03:43:26

21 Q -- it is possible that that is purely a result of 03:43:32

22 the restriction on magazine capacity versus the 03:43:35

23 particular firearm. 03:43:39

24 Is that fair to say? 03:43:40

25 A The reason why I don't say that is that it does 03:43:42

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1 seem that we get both fewer episodes of these mass 03:43:47
2 shootings and less deadly episodes, and so the 03:43:53
3 less-deadly part we are not sure whether that comes via 03:43:57
4 the -- the -- the magazine-component element of the 03:44:01
5 assault weapon ban or the gun-limiting element of the 03:44:07
6 assault weapon ban. 03:44:12
7 But the other part, which is the -- just the 03:44:15
8 reduction in the number of episodes, probably comes 03:44:18
9 purely through the -- the gun effect as opposed to the 03:44:23
10 gun-plus-high-capacity-magazine effect. 03:44:26
11 Q Why is that? 03:44:30
12 A I mean, it's -- what I just said is, I think, 03:44:30
13 plausible and likely, but not 100 percent certain for 03:44:37
14 the following reason: A lot of mass shooters seem to 03:44:43
15 like the idea of having very potent and scary-looking 03:44:48
16 weaponry in their hands, and the federal assault weapon 03:44:55
17 ban sort of undermined their aspirations to some degree. 03:45:00
18 If -- if that only comes by virtue of the gun 03:45:12
19 itself, then the assault weapon -- the -- the 03:45:14
20 restrictions on magazines doesn't play much of a role in 03:45:16
21 reducing the number of episodes, even if it does play a 03:45:21
22 role in reducing the lethality of those episodes. 03:45:26
23 But you could also make the argument: Well, 03:45:30
24 maybe it's the whole package; that it's not only that 03:45:32
25 you are going to have a scary-looking gun, but you are 03:45:38

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1 going to be able to kill a lot of people without even 03:45:40
2 having to reload that drives people to do this, and if 03:45:44
3 they thought, hey, you know, I'm only going to get off 03:45:48
4 ten shots and then I've got to reload and, at that 03:45:52
5 point, somebody's going to crack me over the head, that 03:45:55
6 may discourage them, and so it could be the whole 03:45:57
7 package or it could just be those two separate effects, 03:46:01
8 and we don't really know the answer to that yet. 03:46:03
9 Q So you don't know, and so it could be solely the 03:46:05
10 magazine; correct? 03:46:09
11 A I -- I doubt it's solely the magazine. The 03:46:10
12 question is: Can we say that the impact on number of 03:46:14
13 incidents is solely the gun itself, or is the presence 03:46:20
14 of the magazine something that makes the gun more 03:46:26
15 attractive? And when that option is off the table, you 03:46:30
16 have got fewer episodes as well. 03:46:33
17 Q And you are basing your opinion on the assumption 03:46:35
18 that these scary-looking guns were no longer for sale 03:46:41
19 under the federal assault weapons ban? 03:46:46
20 A The -- you know, obviously the -- the federal 03:46:55
21 assault weapon ban curtailed access to certain types of 03:46:58
22 guns. Those seem to be the guns that many mass 03:47:03
23 criminals or mass shooters are drawn to, but, you know, 03:47:07
24 even -- you can get other guns as well. 03:47:14
25 MR. BRADY: Mark this as Exhibit 14. 03:47:33

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