

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
No. 8:17-cv-00746 (Staton, J.)

**BRIEF OF *AMICUS CURIAE* BRADY IN SUPPORT OF APPELLEE
XAVIER BECERRA AND AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT

Brady has no parent corporations. Brady also has no stock; therefore, no publicly held company owns 10% or more of its stock.

s/ Isaac D. Chaput

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June 2, 2020

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INTEREST OF *AMICUS CURIAE*

Brady is one of the nation's oldest and largest nonpartisan, non-profit organizations dedicated to reducing gun violence through education, research, and direct legal advocacy on behalf of victims and communities affected by gun violence. Brady files this brief as *amicus curiae* in support of Appellee the Attorney General of the State of California, and in support of affirmance.¹ All parties consent to the filing of this brief.

Brady has a substantial interest in ensuring that the Second Amendment is not interpreted or applied in a way that would jeopardize the public's interest in protecting individuals, families, and communities from the effects of gun violence. Brady has filed amicus briefs in numerous cases involving firearms regulations. *See, e.g., McDonald v. City of Chicago*, 561 U.S. 742, 870 n.13, 887 n.30, 891 n.34 (2010) (Stevens, J., dissenting) (citing Brady brief); *United States v. Hayes*, 555 U.S. 415, 427 (2009) (citing Brady brief); *District of Columbia v. Heller*, 554 U.S. 570 (2008); and *Friedman v. City of Highland Park, Ill.*, 784 F.3d 406 (7th Cir. 2015), *cert. denied* 136 S. Ct. 447 (2015). Brady filed an amicus brief below

¹ No party's counsel authored this brief in whole or in part, no party or party's counsel contributed money that was intended to fund preparing or submitting this brief, and no person other than amicus or its counsel contributed money that was intended to fund preparing or submitting this brief.

in support of the Attorney General's opposition to Plaintiff's motion for summary judgment. *See* ECF No. 97-1.

INTRODUCTION AND SUMMARY OF ARGUMENT

This Court should affirm the District Court's grant of summary judgment rejecting a constitutional challenge to California's Assault Weapons Control Act ("Gun Control Act") in favor of the Attorney General. The Gun Control Act permissibly and properly regulates assault weapons to reduce the psychological and economic toll of mass shootings. As Brady demonstrates below, in addition to the many deaths and injuries caused by mass shootings, the collateral impact of mass shootings alone justifies the legislature's restrictions on assault weapons and large magazines.

While mass shootings account for a sliver of the almost 40,000 annual shooting victims in the United States,² they have undeniably broad and long-term negative consequences. Those effects go well beyond the lives lost and injuries caused. This brief demonstrates the massive psychological and economic toll of mass shootings on survivors, friends and family members, and communities across the country.

² *Ten Years of Mass Shootings in the United States*, Everytown for Gun Safety (Nov. 21, 2019) n.3, available at <https://everytownresearch.org/reports/mass-shootings-analysis/> ["Everytown Nov. 2019"].

Sadly, the epidemic nature of gun violence in the United States means that too often gun violence receives attention only when it is the most horrific and destructive. Yet, assault weapons are, of course, also used in many “ordinary” shootings, with equally severe effects. *See* Appellee Br. at 49-53. The legislature and this Court are entitled to, and should, consider the full scope of gun violence.

The legislature could also have rightfully considered the significant economic impact of mass shootings. Individuals, taxpayers, and communities bear substantial economic costs in the wake of mass shooting after mass shooting. These range from millions in overtime for first responders to tens of thousands in medical costs for individual victims to tens of millions expended by schools and universities. Many of the costs are prospective: they include additional security measures, training, and staff to deal with the next inevitable shooting. And the next. And the next. Since the District Court granted the State’s motion for summary judgment in this case less than one year ago, killers have perpetrated four mass shootings using assault rifles, killing 41 and injuring 90 others, including at the Gilroy Garlic Festival in California.³

³ *See* Mother Jones Mass Shootings Database, 1982 – 2020, *available at* <https://www.motherjones.com/politics/2012/07/mass-shootings-map/21/>.

The market has spoken: mass killers favor assault weapons for use in mass shootings. These firearms are designed to cause the maximum amount of damage in the minimum amount of time. ER3061-62, 3068-70. Common sense tells us “that assault weapons are more dangerous than other kinds of firearms”; they are recognized for their “exceptional lethality.” *Gallinger v. Becerra*, 898 F.3d 1012, 1018-19 (9th Cir. 2018).

This brief demonstrates that the Gun Control Act furthers California’s important interests in keeping its citizens alive, healthy, safe, and financially secure. Those interests more than adequately justify the State’s invocation of its broad power to protect the public from violence. *See, e.g., Hill v. State of Ga.*, 53 Ga. 472, 477 (1874) (“The preservation of the public peace, and the protection of the people against violence, are constitutional duties of the legislature, and the guarantee of the right to keep and bear arms is to be understood and construed in connection and in harmony with these constitutional duties.”); *English v. State*, 35 Tex. 473, 478-79 (1871) (“We confess it appears to us little short of ridiculous, that any one should claim the right to carry upon his person any of the mischievous devices inhibited by the statute, into a peaceable public assembly, as, for instance into a church, a lecture room, a ball room, or any other place where ladies and gentlemen are congregated together.”); *see also Hill v. Colorado*,

530 U.S. 703, 715 (2000) (“It is a traditional exercise of the States’ police powers to protect the health and safety of their citizens. That interest may justify a special focus on unimpeded access to health care facilities and the avoidance of potential trauma to patients associated with confrontational protests.”) (internal quotation marks and citations omitted).

Despite the gun industry’s efforts to cloak analysis of America’s gun violence epidemic by denying the Centers for Disease Control funding for gun violence research,⁴ the evidence now demonstrates this much: mass shootings cause a range of negative mental health outcomes for survivors, their friends, families, and communities. The State has a constitutional *duty* to protect its citizens from violence; regulating assault weapons directly serves that interest; and the Gun Control Act survives constitutional challenge.

⁴ Steve Mirsky, *The Federal Government Makes It Ridiculously Hard to Study Gun Violence and Medical Marijuana*, scientificamerican.com (May 1, 2017), <https://www.scientificamerican.com/article/the-federal-government-makes-it-ridiculously-hard-to-study-gun-violence-and-medical-marijuana/> (“Twenty years ago [the CDC was] doing a tiny amount of funding for firearms research . . . \$2.6 million a year total,’ [Harvard Professor David] Hemenway said. ‘This was too much for the gun lobby and Republicans in Congress, and they attacked the CDC. And now the CDC does no funding of firearms research. Zero.’”).

ARGUMENT

I. Assault Weapons Make Mass Shootings Much Worse.

When shootings involve an assault weapon, the number of victims more than doubles. Using assault weapons, individual shooters killed 20 kids and 6 adults at Sandy Hook Elementary School in 2012, 58 people in Las Vegas in 2017, 26 churchgoers at First Baptist Church in Sutherland Springs in 2017, 14 teenagers and 3 teachers at Marjory Stoneman Douglas High School in 2018, 11 worshipers at the Tree of Life Synagogue in 2018, and 23 people in El Paso in 2019.⁵ The list goes on.⁶ A study of mass

⁵ C.J. Chivers, et al., *With AR-15s, Mass Shooters Attack With the Rifle Firepower Typically Used by Infantry Troops*, nytimes.com (Feb. 28, 2018), <https://nyti.ms/2CNrodx> (Sandy Hook, Las Vegas, Sutherland Springs, and Marjory Stoneman Douglas High School); Tom Winter, et al., *How a deadly shooting unfolded at Tree of Life synagogue in Pittsburgh*, nbcnews.com (Oct. 28, 2018), <https://www.nbcnews.com/news/us-news/tree-life-synagogue-deadly-shooting-n925291> (Tree of Life synagogue); Manny Fernandez and Sarah Mervosh, *Soccer Coach in El Paso Shooting Dies 9 Months Later*, nytimes.com (Apr. 27, 2020), <https://nyti.ms/2KEWSHG> (El Paso).

⁶ Just in the last decade, mass shootings perpetrated with assault rifles include: Odessa, Texas (2019): 7 dead and 25 injured; Dayton, Ohio (2019): 9 dead and 27 injured; Gilroy, California (2019): 3 dead and 12 injured; Waffle House Shooting (2018): 4 dead and 4 injured; Yountville, California (2018): 3 dead; Melcroft, Pennsylvania (2018): 4 dead and 1 injured; Rancho Tehama, California (2017): 5 dead and 10 injured; Baton Rouge, Louisiana (2016): 3 dead and 3 injured; Dallas, Texas (2016): 5 dead and 11 injured; Orlando, Florida (2016): 49 dead and 53 injured; Heston, Kansas (2016): 3 dead and 14 injured; San Bernardino, California (2015): 14 dead and 21 injured; Chattanooga, Tennessee (2015): 5 dead and 2 injured;

shooting incidents between 2009 and 2018 found that 17% of mass shootings involved the use of an assault weapon, but those incidents accounted for 32% of mass shooting deaths and 82% of injuries.⁷

The reason is obvious: assault weapons were designed for the military and so are far more lethal than other firearms. They “fire almost as rapidly as automatics”; they shoot rounds with a higher velocity than handguns; and they use ammunition that fragments and mushrooms in the body.

Heller v. Dist. of Columbia, 670 F.3d 1244, 1263 (D.C. Cir. 2011); ER3061-62. An early assessment of the then new AR-15 lauded its “lethality.”

ER3068.⁸ That study catalogued the severe wounds resulting from AR-15s:

One round in the head-took it completely off.
Another in the right arm, took it completely off, too.
One round hit him in the right side, causing a hole
about five inches in diameter.

* * *

Santa Monica, California (2013): 6 dead and 3 injured; Aurora, Colorado (2012): 12 dead and 70 injured; Carson City, Nevada (2011): 5 dead and 7 injured. See Mother Jones Mass Shootings Database, 1982 – 2020, available at <https://www.motherjones.com/politics/2012/07/mass-shootings-map/21/>.

⁷ Everytown Nov. 2019. The study was limited to mass shootings with known weapon data.

⁸ As Prof. Donohue notes, while the military version of the AR-15 includes a fully-automatic setting, the civilian version “still retains all the other aspects that made it such a valuable lethal weapon for deadly combat.” ER3069.

a back wound that “caused the thoracic cavity to explode,”; a buttock wound that ‘destroyed all tissue of both buttocks’; and finally ‘a heel wound,’ where “the projectile entered the bottom of the right foot causing the leg to split from the foot to the hip.”

ER3068-69. Physicians who treat victims of mass shootings echo the severity of these wounds. One woman injured in the 2019 El Paso shooting “had two gaping holes the size of a man’s fist in her side and a third the size of a silver dollar where bullets had burst from her body.”⁹ She was just one victim of thousands who have suffered such wounds. Doctors were still trying to repair wounds of El Paso victims six days after the shooting.¹⁰

Survivors who witness such horrors suffer severe psychological trauma. So do friends, families, and communities.

II. Mass Shootings Impose Vast Public Health Burdens.

Epidemiologists and psychologists “have long known that violent and life-threatening events can have psychological consequences.”¹¹ While the psychological impact of mass shootings requires additional study, the literature and data discussed below show a direct link between mass

⁹ Gina Kolata, *Surgeons Labored to Save the Wounded in El Paso Mass Shooting*, nytimes.com (Aug. 9, 2019), <https://nyti.ms/2YUGiMt>.

¹⁰ *Id.*

¹¹ Emily Goldmann & Sandro Galea, *Mental Health Consequences of Disasters*, 35 Ann. Rev. Pub. Health 169, 170 (2014) [“Goldmann & Galea”].

shootings and negative mental health outcomes. In short, “the apparent randomness and unpredictability of mass shootings combined with the sense of helplessness of the targets make these events far more traumatic than nearly all other causes of injury and death.”¹²

A. Survivors and Victims’ Loved Ones Commit Suicide.

“Learning about a close friend or loved one’s death in a mass shooting is associated with heightened risk of a range of untoward mental health outcomes.”¹³ The grave mental health burden on mass shooting victims, survivors, and their families has led to many suicides or attempted suicides.¹⁴ Examples abound: A few months after the Columbine High School shooting, the mother of a wounded student committed suicide¹⁵; a few months later a student who witnessed the attacks took his own life;

¹² Ali Rowhani-Rahbar, Douglas F. Zatzick, & Frederick P. Rivara, *Long-lasting Consequences of Gun Violence and Mass Shootings*, 321 JAMA 18, 1765 (May 14, 2019) [“Rowhani-Rahbar”].

¹³ *Id.* at 1765 (“A review of 49 articles on independent samples of survivors and members of affected communities in the aftermath of 15 mass shooting incidents identified prevalence estimates of up to 91% for posttraumatic stress disorder and up to 71% for major depression . . .”).

¹⁴ Ashley Fetters, *Lasting Grief After a Mass Shooting*, theatlantic.com (Mar. 28, 2019), <https://www.theatlantic.com/education/archive/2019/03/grief-school-shootings-suicide/585865/>.

¹⁵ David Olinger, et al., *Victim’s mother commits suicide*, denverpost.com (Oct. 23, 1999), <https://extras.denverpost.com/news/shot1023.htm>.

years later, another survivor did¹⁶. The congressionally-mandated National Center for PTSD has acknowledged a “heightened risk of suicide in trauma survivors.”¹⁷ PTSD, the most common result of mass shootings (*see infra* Part II.B), is “significantly associated with suicidal ideation or attempts.”¹⁸

Several incidents in March 2019 demonstrated the long-term mental health impact of mass shootings on survivors and their families. Jeremy Richmond, the father of Sandy Hook victim Avielle Richmond, ended his own life.¹⁹ The same month two teenagers, both of whom survived the Parkland shooting just a year earlier, and one of whom had been diagnosed with PTSD, died by suicide within a one week time span.²⁰ These tragedies

¹⁶ Peter Slevin, *Star Athlete’s Suicide Brings New Grief to Columbine High*, washingtonpost.com (May 6, 2000), https://www.washingtonpost.com/archive/politics/2000/05/06/star-athletes-suicide-brings-new-grief-to-columbine-high/04f1e573-bf3a-41df-9a33-9ad22309a11b/?utm_term=.db4a8dd85d45

¹⁷ William Hudenko, et al., *The Relationship Between PTSD and Suicide*, U.S. Dep’t of Veterans Aff., National Center for PTSD, https://www.ptsd.va.gov/professional/treat/cooccurring/suicide_ptsd.asp.

¹⁸ *Id.*

¹⁹ Terry Spencer, et al., *Linked by pain: 2 school massacre survivors, dad kill selves*, apnews.com (Mar. 25, 2019), <https://apnews.com/c61e2bf3870d44bc9bbf92debf9f77ac>.

²⁰ *Id.*

are a sobering reminder of the long term and broad impact of mass shootings in the United States.

The Constitution protects Americans' most fundamental right—to live.²¹ Surely it permits the State to protect its citizens against situations statistically and causally correlated with suicide.

B. Mass Shootings Cause Many Kinds of Mental Health Traumas.

Shooting survivors face numerous potential mental health consequences, including among others: post-traumatic stress symptoms, post-traumatic stress disorder (“PTSD”), major depressive disorder, generalized anxiety disorder, death anxiety, panic disorder, phobias, prolonged grief disorder, and substance abuse.²² Individuals with PTSD experience severe symptoms that require treatment in order to regain functioning, such as nightmares and flashbacks, avoidance of stimuli that trigger thoughts about the traumatic event, numbing of emotional

²¹ Jonathan Lowy & Kelly Sampson, *The Right Not to Be Shot: Public Safety, Private Guns, and the Constellation of Constitutional Liberties*, 14 *Geo. J.L. & Pub. Pol’y* 187, 189-90 (2016).

²² Goldmann & Galea at 172-73.

responses, hyperarousal, feelings of detachment or irritability, and concentration problems.²³

These mental health traumas extend beyond those actually shot. They include those merely present at a mass shooting. They include EMTs, police officers, and other first responders. They include trauma doctors and nurses. While post-disaster PTSD rates ordinarily reach 30-40% for “direct victims” of mass trauma, victims of “unexpected acts of mass violence” can suffer PTSD at rates of up to 100%.²⁴ PTSD rates reach 10-20% for rescue workers and 5-10% for the “general population.”²⁵

Other significant mental health problems plague survivors. Victims commonly suffer major depressive disorder, which can significantly impair

²³ Goldmann & Galea at 172-73; Connor P. Sullivan, et al., *Network Analysis of PTSD Symptoms Following Mass Violence*, Psychol. Trauma: Theory, Res., Prac., & Pol’y, at 2 (Dec. 8, 2016) available at <http://dx.doi.org/10.1037/tra0000237> [“Sullivan”]; Lynsey R. Miron, et al., *Differential Predictors of Transient Stress Versus Posttraumatic Stress Disorder: Evaluating Risk Following Targeted Mass Violence*, 45 Behav. Therapy 791, 792 (2014) [“Miron”].

²⁴ Goldmann & Galea at 172.

²⁵ *Id.*; see also Laura C. Wilson, *Mass Shootings: A Meta-Analysis of the Dose-Response Relationship*, 27 J. of Traumatic Stress 631, 632 (Dec. 2014) (noting that “deliberate acts of human-made mass violence, such as mass shootings, have been found to have more severe and long-lasting psychological consequences than accidents or natural disasters”) [“Wilson”].

functioning and productivity.²⁶ Symptoms include sadness, loss of interest in things once enjoyed, changes in sleep and weight, difficulty concentrating, and irritability.²⁷ Mass shootings increase substance use disorder; that is, some survivors abuse alcohol and drugs.²⁸ Substance use disorder causes difficulties fulfilling obligations at school, work, or home; legal issues; trouble maintaining social relationships; involvement in dangerous situations; increased physical tolerance and withdrawal symptoms; and unsuccessful efforts to quit.²⁹ And up to 95% of mass shooting survivors experience post-traumatic stress symptoms.³⁰

Survivors also often experience physical symptoms tied to psychological distress. Up to 78% of disaster survivors experience sleep disruption, headaches, fatigue, abdominal pain, and shortness of breath after the traumatic event.³¹ These symptoms may persist for years.³²

²⁶ Goldmann & Galea at 172.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Sullivan at 1.

³¹ Goldmann & Galea at 173.

³² *Id.*

Mental disorders among trauma survivors overlap—a concept known as “comorbidity.”³³ Comorbidity means a person simultaneously exhibits symptoms of multiple disorders, which increases the difficulty of diagnosing and treating each. Comorbidity generally leads to greater impairment of functioning than one disorder alone and increases the risk of a chronic disorder.³⁴ While studying comorbidity presents difficulties, survivors of mass shootings experience these disorders at significantly greater rates than those exposed to other types of trauma, such as natural disasters.³⁵

Victims of mass shootings face life-long mental health consequences. While only a small portion of survivors seek treatment and many wait years before seeking help,³⁶ the literature has uniformly found that a significant proportion of mass shooting victims face long-term mental disorders.³⁷

³³ *Id.*

³⁴ *Id.*; *see also* Sullivan at 5-7.

³⁵ Goldmann & Galea at 172, 175.

³⁶ *Id.* at 178.

³⁷ *See, e.g., id.* (“Although most disaster victims will regain functioning without an intervention [], some will require longer-term treatment for psychological conditions.”); Miron at 791 (“Exposure to targeted mass violence can result in both acute distress and long-term negative consequences, such as PTSD.”); Wilson at 632 (“[D]eliberate acts of human-made mass violence, such as mass shootings, have been found to

One study analyzed coping strategies among college women exposed to the Virginia Tech shooting and found that “the high percentage of individuals experiencing clinically elevated PTSD symptoms supports that even individuals *indirectly exposed* to a mass trauma are potentially vulnerable to experiencing significant *and persistent* symptomatology.”³⁸

The anecdotal experiences of trauma survivors—such as Columbine survivors—bear this out.³⁹ One survivor “hadn’t had anxiety for many, many years,” but now begins shaking when she thinks about sending her 11-month-old daughter to school after a young woman made a threatening

have more severe and long-lasting psychological consequences than accidents or natural disasters.”).

³⁸ Heather Littleton, et al., *Longitudinal evaluation of the relationship between maladaptive trauma coping and distress: examination following the mass shooting at Virginia Tech*, 24 *Anxiety Stress Coping* 3, at 11 (May 2011), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3148079/> (emphasis added) [“Littleton”].

³⁹ Jennifer Oldham, et al., *‘Infatuated’ with the Columbine shooting, she flew to Colorado and bought a gun*, washingtonpost.com (Apr. 17, 2019), https://www.washingtonpost.com/local/education/infatuated-with-the-columbine-shooting-she-flew-to-colorado-and-bought-a-gun/2019/04/17/3f32239c-6164-11e9-bfad-36a7eb36cb60_story.html?utm_term=.c87128484084.

“pilgrimage” to Colorado.⁴⁰ “It’s the fear of not being able to protect her.”⁴¹

Another survivor described being “terrified to send my son to high school next year.”⁴²

Despite survivors’ deep trauma, many feel shame or guilt in seeking help. One woman was a junior at Virginia Tech in 2007 when a mass shooting left 32 people dead.⁴³ In the aftermath of the shooting she walked past the bodies of her dead classmates. Still, she “felt that she did not need to take up mental health counselors’ time.” The victim believed she did not deserve help—unlike those “who had lost loved ones” or “the wounded.”⁴⁴ Her effort to prioritize the time of mental health professionals left her with severe anxiety, and she ultimately developed an eating disorder. Despite living with these anxieties, this victim waited years to seek counseling.⁴⁵

⁴⁰ Julie Turkewitz, *Columbine Survivors Reflect, and Reckon with Specter of Future Shootings*, nytimes.com (Apr. 20, 2019), <https://nyti.ms/2KNUfpM>.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Patricia Mazzei & Miriam Jordan, *‘You Can’t Put It Behind You’: School Shootings Leave Long Trail of Trauma*, nytimes.com (Mar. 28, 2019), <https://nyti.ms/2UYsb3C>.

⁴⁴ *Id.*

⁴⁵ *Id.*

Put simply, mass shootings wreak mental havoc—havoc that materially worsens the lives of survivors, their families, and others. The legislature unquestionably has the power to address these debilitating and often grievous harms.

C. The Victimization of Children Exacerbates the Effects of Mass Shootings.

The mental health consequences of mass shootings on victims, survivors, and communities are *horrific*. The consequences for children are worse. And many shooters target children. Mass shootings accounted for the deaths of 309 children, 25% of those killed in mass shootings from 2009 to 2018.⁴⁶ 194 more were wounded in those shootings.⁴⁷

Children exhibit a higher prevalence of PTSD following mass shootings than adults.⁴⁸ Young age statistically predicts post-disaster mental disorders and studies of children exposed to sudden, unexpected acts of mass violence have reported extraordinarily high PTSD rates in

⁴⁶ Everytown Nov. 2019.

⁴⁷ *Id.*

⁴⁸ Y. Neria, et al., *Post-traumatic stress disorder following disasters: a systematic review*, 38 *Psychol. Med.* 467, 470 (April 2008) [“Neria”]; see also Goldmann & Galea at 174.

victims.⁴⁹ For example, two studies estimated PTSD in elementary school children after a school shooting in Winnetka, IL at rates of up to 91%.⁵⁰

Children face further complications and consequences. Mass shootings increase absenteeism, force school closures, and force schools to build alternative facilities.⁵¹ Absenteeism and isolation may promote “avoidance coping,” or acting as if the problem does not exist, which increases negative mental health outcomes.⁵² Children face difficulties focusing in school due to the mental health challenges resulting from mass shootings.⁵³

One study found that school shootings cause a drop in enrollment at the impacted schools, and a decrease in math and English proficiency for students at such schools.⁵⁴ Furthermore, “students’ academic achievements

⁴⁹ Neria at 470.

⁵⁰ Sarah R. Lowe & Sandro Galea, *The Mental Health Consequences of Mass Shootings*, 18 *Trauma, Violence, & Abuse* 62, 65-66 (2017) [“Lowe & Galea”].

⁵¹ Amy Novotney, *What happens to the survivors*, 49:8 *Monitor on Psychol.* (Sept. 2018), available at <https://www.apa.org/monitor/2018/09/survivors> [“Novotney”].

⁵² Littleton at 2-3.

⁵³ Novotney.

⁵⁴ Louis-Philippe Beland & Dongwoo Kim, *The Effect of High School Shootings on Schools and Student Performance*, 38 *Educ. Evaluation & Pol’y Anal.* 113, 122-23 (Mar. 2016).

worsen[] after fatal shooting incidents in high schools,” and “the effect of a shooting [on math and English proficiency] is larger for schools with high poverty.”⁵⁵

Moreover, school safety and prevention measures following mass shootings can force kids to relive traumatic events. Active shooter trainings and other emergency drills can trigger flashbacks, exacerbating and prolonging the mental health impacts on students.⁵⁶ Even students at high schools that have not witnessed mass murder feel the effects of these traumatic attacks. A New Jersey teenager writing to the *New York Times* described how “the armed guard who patrols the entrance to my school doesn’t bring our students comfort or relief; he only serves as a stark reminder of the constant threat of a mass murder. Every fire alarm gives me pause, and every lockdown makes my heart race with uncertainty.”⁵⁷

While mass shootings cause negative mental health effects for many, evidence demonstrates that students and children face a greater risk of developing often severe mental illness or suffering other adverse effects.

⁵⁵ *Id.*

⁵⁶ Novotney. While this, too, requires further study, psychologists have seen some success in tailoring emergency drills to reduce the risk of triggering past trauma. *Id.*

⁵⁷ Letter to the Editor, *After Columbine*, nytimes.com (Apr. 24, 2019), <https://nyti.ms/2IF4Wt3>.

D. Mass Shootings Severely Harm Communities.

The effects described above extend well beyond the percipient witnesses of mass murder. Immediate community responses can include mass panic, loss of cohesion, and widespread anxiety. Much like a terrorist attack, mass shootings, while geographically confined, can result in extensive social disruption, creating a larger zone of fear, disruption, and confusion surrounding a smaller zone of physical injury.⁵⁸

Affected workplaces, schools, campuses, neighborhoods, and communities all become loci of mental health problems—even among those not physically present.⁵⁹ “[I]ndirectly exposed populations” suffer “increased fears and decreased perceptions of safety.”⁶⁰ One researcher noted:

multiple levels of people [are] affected. It’s not just the people who directly saw something or were directly injured or lost someone that they loved. . . . It ripples through a community, it shatters a lot of people’s belief about the safety of your community, of the world.⁶¹

⁵⁸ Rowhani-Rahbar at 1765.

⁵⁹ Fran H. Norris, Impact of Mass Shootings on Survivors, Families, and Communities, 18:3 PTSD Res. Q., 4 (Summer 2007).

⁶⁰ Lowe & Galea at 78-79.

⁶¹ Leah Mills, *Twenty years after Columbine, mass shooting survivors help others heal*, Reuters.com (April 17, 2019), <https://www.reuters.com/article/us-usa-columbine-survivors->

Another study found PTSD rates of 5-10% in communities after mass violence.⁶² Survivors face increased risk of suicide, addiction, alcoholism, and lifetimes of major depressive disorder, traumas, PTSD, and other symptoms. Mass shootings “accompanied by a large death toll generally result in higher prevalence of psychopathology in the population because a large proportion of survivors has likely witnessed and personally experienced life-threatening and other traumatic events and may have lost loved ones.”⁶³ Reducing death and the severity of injuries by removing assault weapons and large magazines will in turn improve survivors’ mental health outcomes. The State therefore has a critical public health interest in doing so—both to save lives and to protect the mental health of those who survive.

[widerimage/twenty-years-after-columbine-mass-shooting-survivors-help-others-heal-idUSKCN1RT21X](https://www.widerimage.com/twenty-years-after-columbine-mass-shooting-survivors-help-others-heal-idUSKCN1RT21X).

⁶² Goldman & Galea at 172.

⁶³ Goldman & Galea at 175; *see also* Lowe & Galea at 76 (“Indices of greater incident exposure, including proximity to an attack, acquaintance with the deceased, and higher scores on exposure inventories (with items assessing, e.g., seeing or hearing the events and physical injuries), have consistently been associated with more severe psychological reactions.”); Miron at 792 (“[E]vent-level factors, such as severity of exposure to a traumatic event (e.g., physical or emotional proximity), have been shown to be predictive of later pathology. Generally, greater exposure has been shown to predict greater post-traumatic stress symptoms . . .”).

III. Mass Shootings Impose Significant Social and Economic Burdens.

Mass shootings also impose tremendous social and economic costs on both individuals and taxpayers as a whole. As demonstrated below, those costs provide independent justification and basis for the legislative decision to impose reasonable restrictions on firearm ownership. States and local governments incur millions of dollars in overtime for investigators. Public schools spend millions of dollars every year on heightened security and training. Social services, both ex post and ex ante, likewise cost the state millions. Virginia Tech, for example, spent more than \$11 million on improving campus safety and security in the wake of the 2007 shooting.

A. Mass Shootings Severely Damage the Finances of All Victims and Communities.

The individual financial burdens of a mass shooting fall largely on victims and their families. The State's interest in these burdens is multi-faceted, including lost economic participation and increased costs for government-funded healthcare. For the families of those murdered in a mass shooting, the financial burdens can include medical costs, funeral costs, and loss of lifetime earnings.

The costs for survivors are complex. "Survivors of gunshot injuries experience difficulties ranging from psychological trauma, loss of work, and

steep medical costs.”⁶⁴ A 2017 study of firearm-related injuries found that emergency department charges averaged \$5,254 per patient and inpatient charges averaged \$95,887 per patient.⁶⁵ One-third of patients incurred average costs of \$179,565 for inpatient care and additional care following discharge from the hospital.⁶⁶ Another study, examining 2003-2013 costs of treatment for hospitals rather than billed charges, found that average costs due to “assault firearm” injuries were \$32,237, compared to \$19,175 for handgun injuries.⁶⁷ The increased costs of healthcare from treating wounds from assault weapons—some of which will inevitably be borne by the State—itsself supports banning those weapons.

Medical costs are not limited to the immediate aftermath of violence:

[F]or survivors of gunshot injuries, there are lifetime medical care costs including readmission(s) to the hospital and nursing care. Several studies have found that the lifetime costs of providing care

⁶⁴ See *A Nation of Survivors: The Toll of Gun Violence in America*, Everytown for Gun Safety, at 11 (Feb. 1, 2019), available at <https://everytownresearch.org/wp-content/uploads/2019/01/Survivor-Research-Report-013119B.pdf> [“Everytown Feb. 2019”].

⁶⁵ Faiz Gani, et al., *Emergency Department Visits for Firearm-Related Injuries In The United States, 2006-14*, 36 *Health Aff.* 10, 1729, 1734-35 (2017).

⁶⁶ *Id.* at 1735.

⁶⁷ Corinne Peek-Asa, et al., *Cost of hospitalization for firearm injuries by firearm type, intent, and payer in the United States*, 4:20 *Inj. Epidemiology*, at 7, Table 4 (2017).

following a gunshot injury are more than twice the costs of providing acute care; one study put the lifetime costs of treating gunshot injuries incurred in a single year at \$2.3 billion.⁶⁸

For young adults and children, disabilities can be even more costly, and are disturbingly common.⁶⁹

Victims and families physically harmed by mass shootings bear an overwhelming economic weight, but the costs extend further. First responders, doctors, nurses, and bystanders may be physically unharmed but still experience substantial trauma. These individuals face costs from psychiatric treatment, lost productivity, and lost income.

Economic analyses of recent mass shootings shed further light on the costs to survivors. The 2017 Las Vegas shooting resulted in 59 deaths and over 400 injuries. Ted Miller, an expert on injury and violence at the Pacific Institute for Research and Evaluation, estimated it will cost at least \$600 million in medical bills, follow-up care, and value of the quality of life lost by those who died or were permanently disabled.⁷⁰ In 2016, Dr. Miller

⁶⁸ Everytown Feb. 2019 at 11.

⁶⁹ *See id.* (nearly half of children and young adults were discharged with some disability).

⁷⁰ *See* Gaby Galvin, *Las Vegas Shooting Will Likely Cost Millions*, usnews.com (Oct. 5, 2017), <https://www.usnews.com/news/articles/2017->

estimated that the Pulse Nightclub shooting, which resulted in 49 deaths and more than 50 injuries, will cost \$390 million in similar expenses.⁷¹

B. Mass Shootings Force Taxpayers to Spend Millions.

The costs of responding to—and preventing future—mass shootings stagger the mind. The school security industry is worth an estimated \$2.7 billion.⁷² The Las Vegas shooting, at a hotel in a major tourist destination, caused a 4% drop in tourism in its aftermath.⁷³ Estimates indicate that insurance companies may ultimately pay over \$1 billion due to the shooting.⁷⁴ The massive economic harm from mass shootings alone provides any needed justification for the Gun Control Act.

Overtime for first responders and investigators constitutes one immediate, significant cost. For the Las Vegas shooting, these exceeded

[10-05/las-vegas-shooting-victims-facing-millions-of-dollars-in-medical-expenses.](https://www.thetrace.org/2019/12/alice-active-shooter-training-school-safety/)

⁷¹ *Id.*

⁷² Sylvia Varnham O'Regan, *The Company Behind America's Scariest School Shooter Drills*, thetrace.org (Dec. 13, 2019), <https://www.thetrace.org/2019/12/alice-active-shooter-training-school-safety/>.

⁷³ *Financial Toll of the Las Vegas Massacre*, Giffords Law Center, available at <https://lawcenter.giffords.org/wp-content/uploads/2018/09/Giffords%E2%80%94Financial-Toll-of-the-Las-Vegas-Massacre.pdf>.

⁷⁴ *Id.*

\$2 million, a sum ultimately reimbursed by the federal government—that is, American taxpayers.⁷⁵ After the 2012 Sandy Hook shooting, the U.S. Department of Justice reimbursed over \$1.5 million to organizations and agencies providing direct support to victims, first responders, and the community.⁷⁶

The estimated costs to Virginia and U.S. taxpayers following the 2007 Virginia Tech mass shooting exceeded \$48 million.⁷⁷ Those costs include \$38.7 million paid by Virginia Tech (a public university), and \$8.8 million paid by the Commonwealth of Virginia.⁷⁸ They include a settlement with victims' families and injured survivors; salaries for 11 additional full-time Virginia Tech police department employees; salaries for four additional

⁷⁵ Gary Martin, *Feds Will Reimburse Nevada \$2M for Las Vegas Shooting Costs*, reviewjournal.com (Jun. 25, 2018), <https://www.reviewjournal.com/crime/shootings/feds-will-reimburse-nevada-2m-for-las-vegas-shooting-costs/>.

⁷⁶ *Attorney General Holder Announces 1.5 Million Reimbursement Support Efforts to Victims of the Sandy Hook Elementary School Shooting*, U.S. Department of Justice (Dec. 17, 2013), <https://www.justice.gov/opa/pr/attorney-general-holder-announces-15-million-reimburse-support-efforts-victims-sandy-hook>.

⁷⁷ Anthony Green & Donna Cooper, *Auditing the Cost of the Virginia Tech Massacre*, Ctr. for Am. Progress (Apr. 2012), available at https://cdn.americanprogress.org/wp-content/uploads/issues/2012/04/pdf/vt_gun_control.pdf.

⁷⁸ *Id.* at 6. The federal government paid roughly \$3.6 million in grants; this amount was accounted for in the total for the University. *Id.*

full-time mental health professionals; renovations to classroom doors and locks; and the cleanup, relocation, and renovation of Norris Hall, where most of the murders occurred.⁷⁹ Also, though the exact cost information was unavailable, the report estimated that the cost of treating 17 people who were shot but survived in 2007 was \$1,190,000, and that 49% of this cost would have been paid for by taxpayers.⁸⁰

Constant, repeated mass shootings at schools also lead to costs for improving school security. From the 1999 Columbine shooting through 2015, the federal government allocated at least \$811 million to help school districts hire security guards, including \$45 million since the Sandy Hook shooting.⁸¹ According to the trade magazine *Campus Safety*, approximately 90% of American school systems have made security enhancements since the Sandy Hook shooting.⁸² In Sandy Hook itself, millions of dollars were

⁷⁹ *Id.* at 4-5. The one-time costs to the University alone amounted to at least \$17 million. *Id.* at 7-13. This figure excludes increases to “base costs,” or “traditional, ongoing university costs that increased significantly based on university decision making as a result of the shooting.” *Id.* at 7.

⁸⁰ *Id.* at 17-18.

⁸¹ See Mark Follman, et al., *The True Cost of Gun Violence in America*, motherjones.com (Apr. 15, 2015), <https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>.

⁸² *Id.*

spent hiring two assistant principals, seven new substitute teachers, and additional security guards, and increasing nursing hours at the school.⁸³

Grants from the U.S. Department of Education for these efforts to rebuild the staff totaled \$6.4 million.⁸⁴

Another major, though less common, cost is the expense of prosecuting a surviving mass shooting suspect. One investigation found that “[j]ailing, evaluating and prosecuting . . . [the Aurora, Colorado shooter] cost taxpayers at least \$3 million.”⁸⁵ Another found that legal proceedings for the Aurora shooting exceeded \$5.5 million before trial had even begun, including expenses related to the large pool of 9,000 prospective jurors called for the case.⁸⁶ Coupled with the public safety and

⁸³ *Id.*

⁸³ See Dave Altimari, *Sandy Hook Two Years Later: Where Is the Aid Going*, *courant.com* (Dec. 14, 2014), <https://www.courant.com/news/connecticut/hc-sandy-hook-shooting-two-years-later-20141214-story.html>.

⁸⁴ *Id.*

⁸⁵ See Jordan Steffen & John Ingold, *Aurora theater shooting trial cost taxpayers at least \$3 million*, *denverpost.com* (Apr. 22, 2016), <https://www.denverpost.com/2016/04/19/aurora-theater-shooting-trial-cost-taxpayers-at-least-3-million/>.

⁸⁶ See Mark Follman, *How the Aurora Mass Shooting Cost More Than \$100 Million*, *motherjones.com* (Apr. 2015), <https://www.motherjones.com/kevin-drum/2015/04/aurora-mass-shooting-cost-more-than-100-million/>.

public health costs of gun violence, these economic harms more than adequately support the State's interest in imposing reasonable regulations on assault rifles.

CONCLUSION

Assault rifles are weapons of war, designed to be uniquely devastating. Time and time again, single individuals wielding assault rifles have perpetrated horrific acts of violence. While mass shootings make up a small percentage of gun violence in the United States, they account for outsize social effects. These effects include costly mental health disorders in the broader public, and the huge economic costs to individuals and taxpayers. By prohibiting ownership of this very narrow group of dangerous weapons, instruments used in mass shootings, the State simply seeks to promote and protect the health and well-being of its constituents. Those considerations are more than adequate for the State to invoke its constitutional duty to protect its citizens. For the foregoing reasons, Brady respectfully requests that the Court affirm the District Court's grant of summary judgment.

Respectfully Submitted,

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June 2, 2020

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