

No. 19-55376

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

VIRGINIA DUNCAN, RICHARD LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER WADDELL, AND CALIFORNIA RIFLE &
PISTOL ASSOCIATION, INC., A CALIFORNIA CORPORATION,
Plaintiffs and Respondents,

V.

XAVIER BECERRA, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF
THE STATE OF CALIFORNIA,
Defendant and Appellant.

**On Appeal from the United States District Court
for the Southern District of California**
No. 17-cv-1017-BEN-JLB
The Honorable Roger T. Benitez, Judge

**APPELLANT'S EXCERPTS OF RECORD
VOLUME FOUR**

XAVIER BECERRA
Attorney General of California
THOMAS S. PATTERSON
Senior Assistant Attorney General
MARK R. BECKINGTON
Supervising Deputy Attorney General

JOHN D. ECHEVERRIA
Deputy Attorney General
State Bar No. 268843
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6249
Fax: (213) 897-5775
Email: John.Echeverria@doj.ca.gov
*Attorneys for Defendant-Appellant
Xavier Becerra*

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DEPARTMENT OF
THE TREASURY
STUDY ON
THE SPORTING
SUITABILITY
OF MODIFIED
SEMI-AUTOMATIC
ASSAULT RIFLES

APRIL 1998

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EXECUTIVE SUMMARY

On November 14, 1997, the President and the Secretary of the Treasury ordered a review of the importation of certain modified versions of semiautomatic assault rifles into the United States.¹ The decision to conduct this review stemmed in part from concerns expressed by members of Congress and others that the rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable in a 1989 decision by the Bureau of Alcohol, Tobacco and Firearms (ATF). The decision also stemmed from the fact that nearly 10 years had passed since the last comprehensive review of the importation of rifles, and many new rifles had been developed during this time.

Under 18 U.S.C. section 925(d)(3), the Secretary shall approve applications for importation only when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”). In 1989, ATF denied applications to import a series of semiautomatic versions of automatic-fire military assault rifles. When ATF examined these semiautomatic assault rifles, it found that the rifles, while no longer machineguns, still had a military configuration that was designed for killing and disabling the enemy and that distinguished the rifles from traditional sporting rifles. This distinctively military configuration served as the basis for ATF’s finding that the rifles were not considered sporting rifles under the statute.

The military configuration identified by ATF incorporated eight physical features: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF took the position that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic rifle not importable.

Subsequent to the 1989 decision, certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features other than the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still had the ability to accept a detachable magazine but, more specifically, still had the ability to accept a detachable large capacity magazine that

¹ The President and the Secretary directed that all pending and future applications for importation of these rifles not be acted upon until completion of the review. They also ordered that outstanding permits for importation of the rifles be suspended for the duration of the review period. The existence of applications to import 1 million new rifles and outstanding permits for nearly 600,000 other rifles threatened to defeat the purpose of the expedited review unless the Department of the Treasury deferred action on additional applications and temporarily suspended the outstanding permits. (See exhibit 1 for a copy of the November 14, 1997, memorandum directing this review.)

The rifles that are the subject of this review are referred to in this report as “study rifles.”

was originally designed and produced for the military assault rifles from which they were derived. These magazines are referred to in this report as “large capacity military magazines.” Study rifles with the ability to accept such magazines are referred to in this report as “large capacity military magazine rifles,” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308 (an AK47 variant), is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found to meet the sporting purposes test. Accordingly, the study rifles were approved for import into the United States.

These modified rifles are the subject of the present review. Like the rifles banned in 1989, the study rifles are semiautomatic rifles based on AK47, FN-FAL, HK91 and 93, Uzi, and SIG SG550 military assault rifles. While there are at least 59 specific model designations of the study rifles, they all fall within the basic designs listed above. There are at least 39 models based on the AK47 design, 8 on the FN-FAL design, 7 on the HK91 and 93 designs, 3 on the Uzi design, and 2 on the SIG SG550 design (see exhibit 2 for a list of the models). Illustrations of some of the study rifles are included in exhibit 3 of this report.

This review takes another look at the entire matter to determine whether the modified rifles approved for importation since 1989 are generally recognized as particularly suitable for or readily adaptable to sporting purposes.² We have explored the statutory history of the sporting purposes test and prior administrative and judicial interpretations; reexamined the basic tenets of the 1989 decision; analyzed the physical features of the study rifles, as well as information from a wide variety of sources relating to the rifles’ use and suitability for sporting purposes; and assessed changes in law that might have bearing on the treatment of the rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding

² The study was carried out by a working group composed of ATF and Treasury representatives. The working group’s activities and findings were overseen by a steering committee composed of ATF and Treasury officials.

devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. Specifically, Congress found that these magazines served “combat-functional ends” and were attractive to criminals because they “make it possible to fire a large number of rounds without reloading, then to reload quickly when those rounds are spent.”³ Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. Accordingly, we found that the ability to accept such a magazine is a critical factor in the sporting purposes test, which must be given the same weight as the other military configuration features identified in 1989.

In addition, the information we collected on the use and suitability of LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our review of this information indicated that, with certain exceptions, the LCMM rifles sometimes are used for hunting, their actual use in hunting is limited. There are even some general restrictions and prohibitions on the use of semiautomatic rifles for hunting game. Similarly, although the LCMM rifles usually may be used, with certain exceptions, and sometimes are used for organized competitive target shooting, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use.

Furthermore, the information we gathered demonstrated that the LCMM rifles are attractive to certain criminals. We identified specific examples of the LCMM rifles’ being used in violent crime and gun trafficking. In addition, we found some disturbing trends involving the LCMM rifles, including a rapid and continuing increase in crime gun trace requests after 1991 and a rapid “time to crime.” Their ability to accept large capacity military magazines likely plays a role in their appeal to these criminals.

After weighing all the information collected, we found that the LCMM rifles are not generally recognized as particularly suitable for or readily adaptable to sporting purposes and are therefore not importable. However, this decision will in no way preclude the importation of true sporting firearms.

³ H. Rep. No. 103-489, at 18-19.

BACKGROUND

Importation of Firearms Under the Gun Control Act

The Gun Control Act of 1968 (GCA)⁴ generally prohibits the importation of firearms into the United States.⁵ However, the GCA creates four narrow categories of firearms that the Secretary of the Treasury shall authorize for importation. The category that is relevant to this study is found at 18 U.S.C. section 925(d)(3).

The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . .

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled. (Emphasis added)

This provision originally was enacted, in a slightly different form, by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968⁶ and also was contained in Title I of the GCA, which amended Title IV later that year.

The GCA was enacted in large part "to assist law enforcement authorities in the States and their subdivisions in combating the increasing prevalence of crime in the United States." However, the Senate Report to the act also made clear that Congress did not intend the GCA to place any undue or unnecessary restrictions or burdens on responsible, law-abiding citizens with respect to acquiring, possessing, transporting, or using firearms for lawful activities.⁷

⁴ Pub. L. No. 90-618.

⁵ 18 U.S.C. section 922(l).

⁶ Pub. L. No. 90-351.

⁷ S. Rep. No. 1501, 90th Cong. 2d Sess. 22 (1968).

Consistent with this general approach, legislative history indicates that Congress intended the importation standard provided in section 925(d)(3) to exclude military-type weapons from importation to prevent such weapons from being used in crime, while allowing the importation of high-quality sporting rifles. According to the Senate Report, section 925(d)(3) was intended to "curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting."⁸ The report goes on to explain that "[t]he importation of certain foreign-made and military surplus nonsporting firearms has an important bearing on the problem which this title is designed to alleviate [crime]. Thus, the import provisions of this title seem entirely justified."⁹ Indeed, during debate on the bill, Senator Dodd, the sponsor of the legislation, stated that "Title IV prohibits importation of arms which the Secretary determines are not suitable for . . . sport The entire intent of the importation section is to get those kinds of weapons that are used by criminals and have no sporting purpose."¹⁰

The Senate Report, however, also makes it clear that the importation standards "are designed and intended to provide for the importation of quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms."¹¹ (The rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.) Similarly, the report states that the importation prohibition "would not interfere with the bringing in of currently produced firearms, such as rifles . . . of recognized quality which are used for hunting and for recreational purposes."¹² The reference to recreational purposes is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting, because firearms particularly suitable for these purposes also can be used for other purposes such as recreational shooting.

During debate on the bill, there was discussion about the meaning of the term "sporting purposes." Senator Dodd stated:

[h]ere again I would have to say that if a military weapon is used in a

⁸ S. Rep. No. 1501, 90th Cong. 2d Sess. 22 (1968).

⁹ S. Rep. No. 1501, 90th Cong. 2d Sess. 24 (1968).

¹⁰ 114 Cong. Rec. S 5556, 5582, 5585 (1968).

¹¹ S. Rep. No. 1501, 90th Cong. 2d. Sess. 38 (1968).

¹² S. Rep. No. 1501, 90th Cong. 2d. Sess. 22 (1968).

special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.¹³

Legislative history also shows that the determination of a weapon's suitability for sporting purposes is the direct responsibility of the Secretary of the Treasury. The Secretary was given this discretion largely because Congress recognized that section 925(d)(3) was a difficult provision to implement. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.¹⁴

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace¹⁵

Section 925(d)(3) provides that the Secretary shall authorize the importation of a firearm if it is of a "type" that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The legislative history also makes it clear that the Secretary shall scrutinize types of firearms in exercising his authority under section 925(d). Specifically, the Senate Report to the GCA states that section 925(d) "gives the

Secretary authority to permit the importation of ammunition and certain types of firearms."¹⁶

¹³ 114 Cong. Rec. 27461-462 (1968).

¹⁴ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁵ S. Rep. No. 1097, 90th Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In Gun South, Inc. v. Brady, F.2d 858, 863 (11th Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

¹⁶ S. Rep. No. 1501, 90th Cong. 2d. Sess. 38 (1968).

The Senate Report to the GCA also recommended that the Secretary establish a council that would provide him with guidance and assistance in determining which firearms meet the criteria for importation into the United States.¹⁷ Accordingly, following the enactment of the GCA, the Secretary established the Firearms Evaluation Panel (FEP) (also known as the Firearms Advisory Panel) to provide guidelines for implementation of the "sporting purposes" test. This panel was composed of representatives from the military, the law enforcement community, and the firearms industry. At the initial meeting of the FEP, it was understood that the panel's role would be advisory only.¹⁸ The panel focused its attention on handguns and recommended the adoption of factoring criteria to evaluate the various types of handguns. These factoring criteria are based upon such considerations as overall length of the firearm, caliber, safety features, and frame construction. ATF thereafter developed an evaluation sheet (ATF Form 4590) that was put into use for evaluating handguns pursuant to section 925(d)(3). (See exhibit 4.)

The FEP did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms, which Congress addressed separately, the rifles and shotguns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Therefore, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns.

1984 Application of the Sporting Purposes Test

The first time that ATF undertook a meaningful analysis of rifles or shotguns under the sporting purposes test was in 1984. At that time, ATF was faced with a new breed of imported shotgun, and it became clear that the historical assumption that all shotguns were sporting was no longer viable. Specifically, ATF was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes. This shotgun is a military/law enforcement weapon initially designed and manufactured in South Africa for riot control. When the importer was asked to submit evidence of the weapon's sporting purposes, it provided information that the weapon was suitable for police/combat-style competitions. ATF determined that this type of competition did not constitute a sporting purpose

under the statute, and that the shotgun was not suitable for the traditional shotgun sports of hunting, and trap and skeet shooting.

¹⁷ S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

¹⁸ Gilbert Equipment Co. v. Higgins, 709 F. Supp. 1071, 1083, n. 7 (S.D. Ala. 1989), aff'd without op., 894 F.2d 412 (11th Cir. 1990).

1986 Firearms Owners Protection Act

On May 19, 1986, Congress passed the Firearms Owners Protection Act,¹⁹ which amended section 925(d)(3) to provide that the Secretary "shall" (instead of "may") authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The Senate Report to the law stated "it is anticipated that in the vast majority of cases, [the substitution of 'shall' for 'may' in the authorization section] will not result in any change in current practices."²⁰ As the courts have found, "[r]egardless of the changes made [by the 1986 law], the firearm must meet the sporting purposes test and it remains the Secretary's obligation to determine whether specific firearms satisfy this test."²¹

1986 Application of the Sporting Purposes Test

In 1986, ATF again had to determine whether a shotgun met the sporting purposes test, when the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). Again, ATF refused to recognize police/combat-style competitions as a sporting purpose. After examining and testing the weapon, ATF determined its weight, size, bulk, designed magazine capacity, configuration, and other factors prevented it from being classified as particularly suitable for or readily adaptable to the traditional shotgun sports of hunting, and trap and skeet shooting. Accordingly, its importation was denied.

When this decision was challenged in Federal court, ATF argued, in part, that large magazine capacity and rapid reloading ability are military features. The court accepted this argument, finding "the overall appearance and design of the weapon (especially the detachable box magazine . . .) is that of a combat weapon and not a sporting weapon."²² In reaching this decision, the court was not persuaded by the importer's argument that box magazines can be lengthened or shortened depending on desired shell capacity.²³ The court also agreed with ATF's conclusion that police/combat-style competitions were not considered sporting purposes.

¹⁹ Pub. L. No. 99-308.

²⁰ S. Rep. No. 98-583, 98th Cong. 1st Sess. 27 (1984).

²¹ Gilbert Equipment Co., 709 F. Supp. at 1083.

²² Id. at 1089.

²³ Id. at 1087, n. 20 and 1089.

1989 Report on the Importability of Semiautomatic Assault Rifles

In 1989, after five children were killed in a California schoolyard by a gunman with a semiautomatic copy of an AK47, ATF decided to reexamine whether certain semiautomatic assault-type rifles met the sporting purposes test. This decision was reached after consultation with the Director of the Office of National Drug Control Policy.

In March and April 1989, ATF announced that it was suspending the importation of certain "assault-type rifles." For the purposes of this suspension, assault-type rifles were those rifles that generally met the following criteria: (1) military appearance; (2) large magazine capacity; and (3) semiautomatic version of a machinegun. An ATF working group was established to reevaluate the importability of these assault-type rifles. On July 6, 1989, the group issued its Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles (hereinafter 1989 report).

In the 1989 report, the working group first discussed whether the assault-type rifles under review fell within a "type" of firearm for the purposes of section 925(d)(3). The working group concluded that most of the assault-type rifles under review represented "a distinctive type of rifle [which it called the "semiautomatic assault rifle"] distinguished by certain general characteristics which are common to the modern military assault rifle."²⁴ The working group explained that the modern military assault rifle is a weapon designed for killing or disabling the enemy and has characteristics designed to accomplish this purpose. Moreover, it found that these characteristics distinguish modern military assault rifles from traditional sporting rifles.

The characteristics of the modern military assault rifle that the working group identified were as follows: (1) military configuration (which included: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights) (see exhibit 5 for a thorough discussion of each of these features); (2) ability to fire automatically (i.e., as a machinegun); and (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.²⁵ In regards to the ability to accept a detachable magazine, the working group explained that:

[v]irtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable

²⁴ 1989 report at 6.

²⁵ 1989 report at 6.

magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.²⁶

The working group emphasized that these characteristics had to be looked at as a whole to determine whether the overall configuration of each of the assault-type rifles under review placed the rifle fairly within the semiautomatic assault rifle type. The semiautomatic assault rifles shared all the above military assault rifle characteristics other than being machineguns.²⁷

The working group also addressed the scope of the term "sporting purposes." It concluded that the term should be given a narrow interpretation that focuses on the traditional sports of hunting and organized competitive target shooting. The working group made this determination by looking to the statute, its legislative history, applicable case law, the work of the FEP, and prior interpretations by ATF. In addition, the working group found that the reference to sporting purposes was intended to stand in contrast to military and law enforcement applications. Consequently, it determined that police/combat-type competitions should not be treated as sporting activities.²⁸

The working group then evaluated whether the semiautomatic assault rifle type of firearm is generally recognized as particularly suitable for or readily adaptable to traditional sporting applications. This examination took into account technical and marketing data, expert opinions, the recommended uses of the firearms, and information on the actual uses for which the weapons are employed in this country. The working group, however, did not consider criminal use as a factor in its analysis of the importability of this type of firearm.

After analyzing this information, the working group concluded that semiautomatic assault rifles are not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, the working group concluded that semiautomatic assault rifles should not be authorized for importation under section 925(d)(3). However, the working group found that some of the assault-type rifles under review (the Valmet Hunter and .22 rimfire caliber rifles), did not fall within the semiautomatic assault rifle type. In the case of the Valmet Hunter, the working group found that although it was based on the operating mechanism of the AK47 assault rifle, it had been substantially

²⁶ 1989 report at 6 (footnote omitted).

²⁷ The semiautomatic assault rifles were semiautomatic versions of machineguns.

²⁸ 1989 report at 9-11.

changed so that it was similar to a traditional sporting rifle.²⁹ Specifically, it did not have any of the military configuration features identified by the working group, except for the ability to accept a detachable magazine.

Following the 1989 study, ATF took the position that a semiautomatic rifle with any of the eight military configuration features identified in the 1989 report, other than the ability to accept a detachable magazine, failed the sporting purposes test and, therefore, was not importable.

Gun South, Inc. v. Brady

Concurrent with its work on the 1989 report, ATF was involved in litigation with Gun South, Inc. (GSI). In October 1988 and February 1989, ATF had granted GSI permits to import AUG-SA rifles. As mentioned previously, in March and April of 1989, ATF imposed a temporary suspension on the importation of rifles being reviewed in the 1989 study, which included the AUG-SA rifle. GSI filed suit in Federal court, seeking to prohibit the Government from interfering with the delivery of firearms imported under permits issued prior to the temporary suspension.

The court of appeals found that the Government had the authority to suspend temporarily the importation of GSI's AUG-SA rifles because the GCA "impliedly authorizes" such action.³⁰ In addition, the court rejected GSI's contention that the suspension was arbitrary and capricious because the AUG-SA rifle had not physically changed, explaining the argument "places too much emphasis on the rifle's structure for determining whether a firearm falls within the sporting purpose exception. While the Bureau must consider the rifle's physical structure, the [GCA] requires the Bureau to equally consider the rifle's use."³¹ In addition, the court found that ATF adequately had considered sufficient evidence before imposing the temporary suspension, citing evidence ATF had considered

demonstrating that semiautomatic assault-type rifles were being used with increasing frequency in crime.³²

²⁹ This finding reflects the fact that the operating mechanism of the AK47 assault rifle is similar to the operating mechanism used in many traditional sporting rifles.

³⁰ Gun South, Inc. v. Brady, 877 F.2d 858 (11th Cir. 1989). The court of appeals issued its ruling just days before the 1989 report was issued. However, the report was complete before the ruling was issued.

³¹ Id.

³² Id.

Although GSI sued ATF on the temporary suspension of its import permits, once the 1989 report was issued, no one pursued a lawsuit challenging ATF's determination that the semiautomatic assault rifles banned from importation did not meet the sporting purposes test.³³

Violent Crime Control and Law Enforcement Act of 1994

On September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994,³⁴ which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons as defined by the statute.³⁵ The statute defined semiautomatic assault weapons to include 19 named models of firearms (or copies or duplicates of the firearms in any caliber);³⁶ semiauto-matic rifles that have the ability to accept detachable magazines and have at least two of five features specified in the law; semiautomatic pistols that have the ability to accept detachable magazines and have at least two of five features specified in the law; and semiautomatic shotguns that have at least two of four features specified in the law.³⁷ However, Congress

³³ After the 1989 report was issued, Mitchell Arms, Inc. asserted takings claims against the Government based upon the suspension and revocation of four permits allowing for the importation of semiautomatic assault rifles and ATF's temporary moratorium on import permits for other rifles. The court found for the Government, holding the injury complained of was not redressable as a taking because Mitchell Arms did not hold a property interest within the meaning of the Just Compensation Clause of the Fifth Amendment. Mitchell Arms v. United States, 26 Cl. Ct. 1 (1992), aff'd, 7 F.3d 212 (Fed. Cir. 1993), cert. denied, 511 U.S. 1106 (1994).

³⁴ Pub. L. No. 103-22. Title XI, Subtitle A of this act may be cited as the "Public Safety and Recreational Firearms Use Protection Act."

³⁵ 18 U.S.C. section 922(v).

³⁶ Chapter 18 U.S.C. section 921(a)(30)(A) states that the term "semiautomatic assault weapon" means "any of the firearms, or copies or duplicates of the firearms in any caliber, known as -, " followed by a list of named firearms. Even though section 921(a)(3) defines "firearm" as used in chapter 18 to mean, in part, "the frame or receiver of any such weapon," the use of "firearm" in section 921(a)(30)(A) has not been interpreted to mean a frame or receiver of any of the named weapons, except when the frame or receiver actually is incorporated in one of the named weapons.

Any other interpretation would be contrary to Congress' intent in enacting the assault weapon ban. In the House Report to the assault weapon ban, Congress emphasized that the ban was to be interpreted narrowly. For example, the report explained that the present bill was more tightly focused than earlier drafts which gave ATF authority to ban any weapon which "embodies the same configuration" as the named list of guns in section 921(a)(30)(A); instead, the present bill "contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons [beyond the listed weapons]." H. Rep. 103-489 at 21.

³⁷ 18 U.S.C. section 921(a)(30).

exempted from the assault weapon ban any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition and any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.³⁸

Although the 1994 law was not directly addressing the sporting purposes test in section 925(d)(3), section 925(d)(3) had a strong influence on the law's content. The technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law. The House Report to the 1994 law explained that although the legal question of whether semiautomatic assault weapons met section 925(d)(3)'s sporting purposes test "is not directly posed by [the 1994 law], the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features."³⁹ As in the 1989 study, Congress focused on the external features of firearms, rather than on their semiautomatic operating mechanism.

The 1994 law also made it unlawful to possess and transfer large capacity ammunition feeding devices manufactured after September 13, 1994.⁴⁰ A large capacity ammunition feeding device was generally defined as a magazine, belt, drum, feed strip, or similar device that has the capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.⁴¹

Congress passed these provisions of the 1994 law in response to the use of semiautomatic assault weapons and large capacity ammunition feeding devices in crime. Congress had been presented with much evidence demonstrating that these weapons were "the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder."⁴² The House Report to the 1994 law recounts numerous crimes that had occurred involving semiautomatic assault weapons and large capacity magazines that were originally designed and produced for military assault rifles.⁴³

³⁸ 18 U.S.C. sections 922(v)(3)(C)&(D).

³⁹ H. Rep. No. 103-489, at 17, n. 19.

⁴⁰ 18 U.S.C. section 922(w).

⁴¹ 18 U.S.C. section 921(a)(31).

⁴² H. Rep. No. 103-489, at 13.

⁴³ H. Rep. No. 103-489, at 14-15.

In enacting the semiautomatic assault weapon and large capacity ammunition feeding device bans, Congress emphasized that it was not preventing the possession of sporting firearms. The House Report, for example, stated that the bill differed from earlier bills in that "it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns."⁴⁴ In addition, Congress specifically exempted 661 long guns from the assault weapon ban which are "most commonly used in hunting and recreational sports."⁴⁵

Both the 1994 law and its legislative history demonstrate that Congress recognized that ammunition capacity is a factor in determining whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. Moreover, the House Report specifically states that the ability to accept a large capacity magazine was a military configuration feature which was not "merely cosmetic," but "serve[d] specific, combat-functional ends."⁴⁶ The House Report also explains that, while "[m]ost of the weapons covered by the [ban] come equipped with magazines that hold 30 rounds [and can be replaced with magazines that hold 50 or even 100 rounds], . . . [i]n contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5."⁴⁷

Finally, it must be emphasized that the semiautomatic assault weapon ban of section 922(v) is distinct from the sporting purposes test governing imports of section 925(d)(3). Clearly, any weapon banned under section 922(v) cannot be imported into the United States because its possession in the United States would be illegal. However, it is possible that a weapon not defined as a semiautomatic assault weapon under section 922(v) still would not be importable under section 925(d)(3). In order to be importable, the firearm must be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes regardless of its categorization under section 922(v). The

Secretary's discretion under section 925(d)(3) remains intact for all weapons not banned by the 1994 statute.

The Present Review

Prior to the November 14, 1997, decision to conduct this review, certain members of

⁴⁴ H. Rep. No. 103-489, at 21.

⁴⁵ H. Rep. No. 103-489, at 20. None of these 661 guns are study rifles.

⁴⁶ H. Rep. No. 103-489, at 18.

⁴⁷ H. Rep. No. 103-489, at 19 (footnote omitted).

Congress strongly urged that it was necessary to review the manner in which the Treasury Department is applying the sporting purposes test to the study rifles, in order to ensure that the present practice is consistent with section 925(d)(3) and current patterns of gun use. The fact that it had been nearly 10 years since the last comprehensive review of the importation of rifles (with many new rifles being developed during this time) also contributed to the decision to conduct this review.

DEFINING THE TYPE OF WEAPON UNDER REVIEW

Section 925 (d) (3) provides that the Secretary shall authorize the importation of a firearm if it is of a “type” that meets the sporting purposes test. Given this statutory mandate, we had to determine whether the study rifles suspended from importation fell within one type of firearm. Our review of the study rifles demonstrated that all were derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found to be importable when certain military features were removed.

Within this group, we determined that virtually all of the study rifles shared another important feature: The ability to accept a detachable large capacity magazine (e.g., more than 10 rounds) that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi. (This is the only military configuration feature cited in the 1989 study that remains with any of the study rifles).

We determined that all of the study rifles that shared both of these characteristics fell within a type of firearm which, for the purposes of this report, we call “large capacity military magazine rifles” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308--which is based on the AK47 design--does not fall within this type because it does not have the ability to accept a large capacity military magazine.

SCOPE OF "SPORTING PURPOSES"

As in the 1989 study, we had to determine the scope of "sporting purposes" as used in section 925(d)(3). Looking to the statute, its legislative history, the work of the Firearms Evaluation Panel (see exhibit 6), and prior ATF interpretations, we determined sporting purposes should be given a narrow reading, incorporating only the traditional sports of hunting and organized competitive target shooting (rather than a broader interpretation that could include virtually any lawful activity or competition.)

In terms of the statute itself, the structure of the importation provisions suggests a somewhat narrow interpretation. Firearms are prohibited from importation (section 922(l)), with four specific exceptions (section 925(d)). A broad interpretation permitting a firearm to be imported because someone may wish to use it in some lawful shooting activity would render the general prohibition of section 922(l) meaningless.

Similarly, as discussed in the "Background" section, the legislative history of the GCA indicates that the term sporting purposes narrowly refers to the traditional sports of hunting and organized competitive target shooting. There is nothing in the history to indicate that it was intended to recognize every conceivable type of activity or competition that might employ a firearm.

In addition, the FEP specifically addressed the informal shooting activity of "plinking" (shooting at randomly selected targets such as bottles and cans) and determined that it was not a legitimate sporting purpose under the statute. The panel found that, "while many persons participate in this type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation. . . ." (See exhibit 6.)

Finally, the 1989 report determined that the term sporting purposes should be given a narrow reading incorporating the traditional rifle sports of hunting and organized competitive target shooting. In addition, the report determined that the statute's reference to sporting purposes was intended to stand in contrast with military and law enforcement applications. This is consistent with ATF's interpretation in the context of the Striker-12 shotgun and the USAS-12 shotgun. It is also supported by the court's decision in Gilbert Equipment Co. v. Higgins.

We received some comments urging us to find "practical shooting" is a sport for the purposes of section 925(d)(3).⁴⁸ Further, we received information showing that practical shooting is gaining in popularity in the United States and is governed by an organization that has sponsored national events since 1989. It also has an international organization.

While some may consider practical shooting a sport, by its very nature it is closer to police/combat-style competition and is not comparable to the more traditional types of sports, such as hunting and organized competitive target shooting. Therefore, we are not convinced that practical shooting does, in fact, constitute a sporting purpose under section 925(d)(3).⁴⁹ However, even if we were to assume for the sake of argument that practical shooting is a sport for the purposes of the statute, we still would have to decide whether a firearm that could be used in practical shooting meets the sporting purposes test. In other words, it still would need to be determined whether the firearm is of a type that is generally recognized as particularly suitable for or readily adaptable to practical shooting and other sporting purposes.⁵⁰ Moreover, the legislative history makes clear that the use of a military weapon in a practical shooting competition would not make that weapon

⁴⁸ Practical shooting involves moving, identifying, and engaging multiple targets and delivering a number of shots rapidly. In doing this, practical shooting participants test their defensive skills as they encounter props, including walls and barricades, with full or partial targets, "no-shoots," steel reaction targets, movers, and others to challenge them.

⁴⁹ As noted earlier, ATF has taken the position that police/combat-style competitions do not constitute a "sporting purpose." This position was upheld in Gilbert Equipment Co., 709 F. Supp. at 1077.

⁵⁰ Our findings on the use and suitability of the LCMM rifles in practical shooting competitions are contained in the "Suitability for Sporting Purposes" section of this report.

sporting: “if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event.”⁵¹ While none of the LCMM rifles are military weapons, they still retain the military feature of the ability to accept a large capacity military magazine.

⁵¹ 114 Cong. Rec. 27461-462 (1968) (Sen. Dodd).

METHOD OF STUDY

As explained in the “Executive Summary” section of this report, the purpose of this study is to review whether modified semiautomatic assault rifles are properly importable under 18 U.S.C. section 925(d)(3). More specifically, we reexamined the conclusions of the 1989 report as applied today to determine whether we are correct to allow importation of the study rifles that have been modified by having certain military features removed. To determine whether such rifles are generally recognized as particularly suitable for or readily adaptable to sporting purposes, the Secretary must consider both the physical features of the rifles and the actual uses of the rifles.⁵² Because it appears that all of the study rifles that have been imported to date have the ability to accept a large capacity military magazine,⁵³ all of the information collected on the study rifles’ physical features and actual uses applies only to the LCMM rifles.

Physical features:

The discussion of the LCMM rifles’ physical features are contained in the “Suitability for Sporting Purposes” section of this report.

Use:

We collected relevant information on the use of the LCMM rifles. Although the 1989 study did not consider the criminal use of firearms in its importability analysis, legislative history demonstrates and the courts have found that criminal use is a factor that can be considered in determining whether a firearm meets the requirements of section 925(d)(3).⁵⁴ Accordingly, we decided to consider the criminal use of the LCMM rifles in the present analysis.

The term “generally recognized” in section 925(d)(3) indicates that the Secretary should base his evaluation of whether a firearm is of a type that is particularly suitable for or readily adaptable to sporting purposes, in part, on a “community standard” of the firearm’s use.⁵⁵ The community standard “may change over time even though the firearm remains the same. Thus, a changing pattern of use may significantly affect whether a firearm is generally recognized as particularly suitable for or readily adaptable to a sporting purpose.”⁵⁶ Therefore, to assist the Secretary in determining whether the LCMM rifles presently are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes, we gathered information from the relevant “community.” The relevant community was defined as persons and groups who are

⁵² Gun South, Inc., 877 F.2d at 866.

⁵³ The VEPR caliber .308 discussed on page 16 has not yet been imported.

⁵⁴ 114 Cong. Rec. S 5556, 5582, 5585 (1968)(“[t]he entire intent of the importation section [of the sporting purposes test] is to get those kinds of weapons that are used by criminals and have no sporting purposes”) (Sen. Dodd); Gun South, Inc., 877 F.2d at 866.

⁵⁵ Gun South, Inc., 877 F.2d at 866.

⁵⁶ Id.

knowledgeable about the uses of these firearms or have relevant information about whether these firearms are particularly suitable for sporting purposes. We identified more than 2,000 persons or groups we believed would be able to provide relevant, factual information on these issues. The individuals and groups were selected to obtain a broad range of perspectives on the issues. We conducted surveys to obtain specific information from hunting guides, editors of hunting and shooting magazines, organized competitive shooting groups, State game commissions, and law enforcement agencies and organizations. Additionally, we asked industry members, trade associations, and various interest and information groups to provide relevant information.⁵⁷ A detailed presentation of the surveys and responses is included as an appendix to this report.

We also reviewed numerous advertisements and publications, both those submitted by the editors of hunting and shooting magazines and those collected internally, in our search for material discussing the uses of the LCMM rifles. Further, we collected importation data, tracing data, and case studies.⁵⁸

Our findings on use are contained in the “Suitability for Sporting Purposes” section of this report.

⁵⁷ **Hunting guides:** Guides were asked about specific types of firearms used by their clients. The guides were an easily definable group, versus the entire universe of hunters. We obtained the names of the hunting guides surveyed from the States.

Editors of hunting and shooting magazines: Editors were surveyed to determine whether they recommended the LCMM rifles for hunting or organized competitive target shooting and whether they had written any articles on the subject. The list of editors we surveyed was obtained from a directory of firearms-related organizations.

Organized competitive shooting groups: Organized groups were asked whether they sponsored competitive events with high-power semiautomatic rifles and whether the LCMM rifles were allowed in those competitions. We felt it was significant to query those who are involved with organized events rather than unofficial activities with no specific rules or guidelines. As with the editors above, the list of groups was obtained from a directory of firearms-related organizations.

State game commissions: State officials were surveyed to determine whether the use of the LCMM rifles was prohibited or restricted for hunting in each State.

Law enforcement agencies and organizations: Specific national organizations and a sampling of 26 police departments across the country were contacted about their knowledge of the LCMM rifles’ use in crime. The national organizations were surveyed with the intent that they would gather input from the wide range of law enforcement agencies that they represent or that they would have access to national studies on the subject.

Industry members and trade associations: These groups were included because of their knowledge on the issue.

Interest and information groups: These organizations were included because of their wide range of perspectives on the issue.

⁵⁸ To assist us with our review of the crime-related information we collected, we obtained the services of Garen J. Wintemute, MD, M.P.H. Director of the Violence Prevention Research Program, University of California, Davis, and Anthony A. Braga, Ph.D., J.F.K. School of Government, Harvard University.

SUITABILITY FOR SPORTING PURPOSES

The next step in our review was to evaluate whether the LCMM rifles, as a type, are generally recognized as particularly suitable for or readily adaptable to hunting and organized competitive target shooting.⁵⁹ The standard applied in making this determination is high. It requires more than a showing that the LCMM rifles may be used or even are sometimes used for hunting and organized competitive target shooting; if this were the standard, the statute would be meaningless. Rather, the standard requires a showing that the LCMM rifles are especially suitable for use in hunting and organized competitive target shooting.

As discussed in the “Method of Study” section, we considered both the physical features of the LCMM rifles and the actual uses of the LCMM rifles in making this determination.

Physical Features

The ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi.

Although the LCMM rifles have been stripped of many of their military features, they all still have the ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 and 93, SIG SG550, or Uzi; in other words, they still have a feature that was designed for killing or disabling an enemy. As the 1989 report explains:

Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional

⁵⁹ One commenter suggests that the Secretary has been improperly applying the “readily adaptable to sporting purposes” provision of the statute. Historically, the Secretary has considered the “particularly suitable for or readily adaptable to” provisions as one standard. The broader interpretation urged by the commenter would make the standard virtually unenforceable. If the Secretary allowed the importation of a firearm which is readily adaptable to sporting purposes, without requiring it actually to be adapted prior to importation, the Secretary would have no control over whether the adaptation actually would occur following the importation.

semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.⁶⁰

Thus, the 1989 report found the ability to accept a detachable large capacity magazine originally designed and produced for a military assault rifle was a military, not a sporting, feature. Nevertheless, in 1989 it was decided that the ability to accept such a large capacity magazine, in the absence of other military configuration features, would not be viewed as disqualifying for the purposes of the sporting purposes test. However, several important developments, which are discussed below, have led us to reevaluate the weight that should be given to the ability to accept a detachable large capacity military magazine in the sporting purposes test.

Most significantly, we must reevaluate the significance of this military feature because of a major amendment that was made to the GCA since the 1989 report was issued. In 1994, as discussed in the “Background” section of this report, Congress passed a ban on large capacity ammunition feeding devices and semiautomatic assault weapons.⁶¹ In enacting these bans, Congress made it clear that it was not preventing the possession of sporting firearms.⁶² Although the 1994 law was not directly addressing the sporting purposes test, section 925(d)(3) had a strong influence on the law's content. As discussed previously, the technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law.

Both the 1994 law and its legislative history demonstrate that Congress found that ammunition capacity is a factor in whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. In other words, Congress found magazine capacity to be such an important factor that a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition will not be banned, even if it contains all five of the assault

⁶⁰ 1989 report at 6 (footnote omitted). This was not the first time that ATF considered magazine capacity to be a relevant factor in deciding whether a firearm met the sporting purposes test. See Gilbert Equipment Co., 709 F. Supp. at 1089 (“the overall appearance and design of the weapon (especially the detachable box magazine . . .) is that of a combat weapon and not a sporting weapon.”)

⁶¹ The ban on large capacity ammunition feeding devices does not include any such device manufactured on or before September 13, 1994. Accordingly, there are vast numbers of large capacity magazines originally designed and produced for military assault weapons that are legal to transfer and possess (“grandfathered” large capacity military magazines). Presently these grandfathered large capacity military magazines fit the LCMM rifles.

⁶² See, for example, H. Rep. No. 103-489, at 21.

weapon features listed in the law. Moreover, unlike the assault weapon ban in which a detachable magazine and at least two physical features are required to ban a rifle, a large capacity magazine in and of itself is banned.

In addition, the House Report specifically states that the ability to accept a large capacity magazine is a military configuration characteristic that is not "merely cosmetic," but "serve[s] specific, combat-functional ends."⁶³ The House Report also explains that large capacity magazines

make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent. Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. . . . In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5.⁶⁴

Congress specifically exempted 661 long guns from the assault weapon ban that are "most commonly used in hunting and recreational sports."⁶⁵ The vast majority of these long guns do not use large capacity magazines. Although a small number of the exempted long guns have the ability to accept large capacity magazines, only four of these exempted long guns were designed to accept large capacity military magazines.⁶⁶

The 1994 law also demonstrates Congress' concern about the role large capacity magazines and firearms with the ability to accept these large capacity magazines play in

⁶³ H. Rep. No. 103-489, at 18.

⁶⁴ H. Rep. No. 103-489, at 19 (footnote omitted). The fact that 12 States place a limit on the magazine capacity allowed for hunting, usually 5 or 6 rounds, is consistent with this analysis. (See exhibit 7).

⁶⁵ H. Rep. 103-489, at 20.

⁶⁶ These four firearms are the Iver Johnson M-1 carbine, the Iver Johnson 50th Anniversary M-1 carbine, the Ruger Mini-14 autoloading rifle (without folding stock), and the Ruger Mini Thirty rifle. All of these weapons are manufactured in the United States and are not the subject of this study. In this regard, it should also be noted that Congress can distinguish between domestic firearms and foreign firearms and impose different requirements on the importation of firearms. For example, Congress may ban the importation of certain firearms although similar firearms may be produced domestically. See, for example, B-West Imports v. United States, 75 F.3d 633 (Fed. Cir. 1996).

crime. The House Report for the bill makes reference to numerous crimes involving these magazines and weapons, including the following:⁶⁷

The 1989 Stockton, California, schoolyard shooting in which a gunman with a semiautomatic copy of an AK47 and 75-round magazines fired 106 rounds in less than 2 minutes. Five children were killed and twenty-nine adults and children were injured.

The 1993 shooting in a San Francisco, California, office building in which a gunman using 2 TEC DC9 assault pistols with 50-round magazines killed 8 people and wounded 6 others.

A 1993 shooting on the Long Island Railroad that killed 6 people and wounded 19 others. The gunman had a Ruger semiautomatic pistol, which he reloaded several times with 15-round magazines, firing between 30 to 50 rounds before he was overpowered.

The House Report also includes testimony from a representative of a national police officers' organization, which reflects the congressional concern with criminals' access to firearms that can quickly expel large amounts of ammunition:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before [re]loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, is just no match against a criminal armed with a semiautomatic assault weapon.⁶⁸

Accordingly, by passing the 1994 law, Congress signaled that firearms with the ability to accept detachable large capacity magazines are not particularly suitable for sporting purposes. Although in 1989 we found the ability to accept a detachable large capacity military magazine was a military configuration feature, we must give it more weight, given this clear signal from Congress.

The passage of the 1994 ban on large capacity magazines has had another effect. Under the 1994 ban, it generally is unlawful to transfer or possess a large capacity magazine

⁶⁷ H. Rep. No. 103-489, at 15 (two of these examples involve handguns).

⁶⁸ H. Rep. 103-489, at 13-14 (footnote omitted).

manufactured after September 13, 1994. Therefore, if we require the LCMM rifles to be modified so that they do not accept a large capacity military magazine in order to be importable, a person will not be able to acquire a newly manufactured large capacity magazine to fit the modified rifle. Thus, the modified rifle neither will be able to accept a grandfathered large capacity military magazine, nor can a new large capacity magazine be manufactured to fit it. Accordingly, today, making the ability to accept a large capacity military magazine disqualifying for importation will prevent the importation of firearms which have the ability to expel large amounts of ammunition quickly without reloading.

This was not the case in 1989 or prior to the 1994 ban.

It is important to note that even though Congress reduced the supply of large capacity military magazines by passing the 1994 ban, there are still vast numbers of grandfathered large capacity military magazines available that can be legally possessed and transferred. These magazines currently fit in the LCMM rifles. Therefore, the 1994 law did not eliminate the need to take further measures to prevent firearms imported into the United States from having the ability to accept large capacity military magazines, a nonporting factor.

Another impetus for reevaluating the existing standard is the development of modified weapons. The 1989 report caused 43 different models of semiautomatic assault rifles to be banned from being imported into the United States. The effect of that determination was that nearly all semiautomatic rifles with the ability to accept detachable large capacity military magazines were denied importation. Accordingly, at the time, there was no need for the ability to accept such a magazine to be a determining factor in the sporting purposes test. This is no longer the case. As discussed earlier, manufacturers have modified the semiautomatic assault rifles disallowed from importation in 1989 by removing all of their military configuration features, except for the ability to accept a detachable magazine. As a result, semiautomatic rifles with the ability to accept detachable large capacity military magazines (and therefore quickly expel large amounts of ammunition) legally have been entering the United States in significant numbers. Accordingly, the development of these modified weapons necessitates reevaluating our existing standards.

Thus, in order to address Congress' concern with firearms that have the ability to expel large amounts of ammunition quickly, particularly in light of the resumption of these weapons coming into the United States, the ability to accept a detachable large capacity military magazine must be given greater weight in the sporting purposes analysis of the LCMM rifles than it presently receives.⁶⁹

⁶⁹ A firearm that can be easily modified to accept a detachable large capacity military magazine with only minor adjustments to the firearm or the magazine is considered to be a firearm with the ability to accept these magazines. The ROMAK4 is an example of such a firearm: With minor modifications to either the

Derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found importable when certain military features were removed.

All rifles that failed to meet the sporting purposes test in 1989 were found to represent a distinctive type of rifle distinguished by certain general characteristics that are common to the modern military assault rifle. Although the LCMM rifles are based on rifle designs excluded from importation under the 1989 standard, they all were approved for import when certain military features were removed. However, the LCMM rifles all still maintain some characteristics common to the modern military assault rifle. Because the outward appearance of most of the LCMM rifles continues to resemble the military assault rifles from which they are derived, we have examined the issue of outward appearance carefully. Some might prefer the rugged, utilitarian look of these rifles to more traditional sporting guns. Others might recoil from using these rifles for sport because of their nontraditional appearance. In the end, we concluded that appearance alone does not affect the LCMM rifles' suitability for sporting purposes. Available information leads us to believe that the determining factor for their use in crime is the ability to accept a detachable large capacity military magazine.

Use

In the 1989 study, ATF found that all rifles fairly typed as semiautomatic assault rifles should be treated the same. Accordingly, the report stated "[t]he fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type."⁷⁰ We adopt the same approach for the present study.

Use for hunting:

The information we collected on the actual use of the LCMM rifles for hunting medium or larger game suggests that, with certain exceptions, the LCMM rifles sometimes are used for hunting; however, their actual use in hunting is limited.⁷¹ In fact, there are some

firearm or a large capacity magazine that was originally designed and produced for a semiautomatic assault rifle based on the AK47 design, the ROMAK4 has the ability to accept the magazine.

⁷⁰ 1989 report at 11.

⁷¹ We targeted the surveys toward the hunting of medium and larger game (e.g., turkey and deer) because the LCMM rifles chamber centerfire cartridges and therefore likely would be most suitable for hunting this type of game. We also learned that the LCMM rifles were used to shoot certain varmints (e.g., coyotes and groundhogs), which are generally considered to be pests, not game. Many commented that the LCMM

general restrictions and prohibitions on the use of any semiautomatic rifle for hunting game. Almost half of the States place restrictions on the use of semiautomatic rifles in hunting, mostly involving magazine capacity (5-6 rounds) and what can be hunted with the rifles (see exhibit 7).

Of the 198 hunting guides who responded to our survey, only 26 stated that they had clients who used the LCMM rifles on hunting trips during the past 2 hunting seasons and only 10 indicated that they recommend the LCMM rifles for hunting. In contrast, the vast majority of the guides (152) indicated that none of their clients used the LCMM rifles on hunting trips during the past 2 hunting seasons. In addition, the hunting guides indicated that the most common semiautomatic rifles used by their clients were those made by Browning and Remington.⁷² We found significant the comments of the hunting guides indicating that the LCMM rifles were not widely used for hunting.

Of the 13 editors of hunting and shooting magazines who responded to our survey, only 2 stated that their publications recommend specific types of centerfire semiautomatic rifles for use in hunting medium or larger game. These two respondents stated that they recommend all rifles that are safe and of appropriate caliber for hunting, including the LCMM rifles. However, they did not recommend the LCMM rifles based on the Uzi design for hunting big game; these rifles use a 9mm cartridge, which is not an appropriate caliber for this type of game, according to the editors. It is important to note that the LCMM rifles use different cartridges. The LCMM rifles based on the FN-FAL, SIG SG550, and HK91 and 93 designs are chambered for either the .308 Winchester cartridge or the .223 Remington cartridge, depending on the specific model; the LCMM rifles based on the Uzi design are chambered for the 9mm Parabellum cartridge; and the majority of the LCMM rifles based on the AK47 design are chambered for the 7.62 x 39mm cartridge (some are chambered for the .223 Remington cartridge).

Of the five interest and information groups that responded to our survey, three supported the use of the LCMM rifles for hunting. However, one of these groups stated that the

rifles were particularly useful on farms and ranches because of their ruggedness, utilitarian design, and reliability.

⁷² According to a 1996 study conducted for the Fish and Wildlife Service, only 2 percent of big game hunters surveyed used licensed hunting guides. Therefore, it should be noted that the information provided by the guides we surveyed may not be representative of all hunters. However, we believe that the hunting guides' information is reliable and instructive because of their high degree of experience with and knowledge of hunting.

ammunition used by the LCMM rifle models based on the Uzi design were inadequate for shooting at long distances (i.e., more than 100 yards).

Out of the 70 published articles reviewed from various shooting magazines, only 5 contained relevant information. One of these five articles stated that, in the appropriate calibers, the LCMM rifles could make “excellent” hunting rifles. Two of the articles stated that the 7.62 x 39mm cartridge (used in LCMM rifles based on the AK47 design) could be an effective hunting cartridge. One of the articles that recommended the rifles also recommended modifications needed to improve their performance in hunting. None of the articles suggested that LCMM rifles based on the Uzi design were good hunting rifles. Thus, although the LCMM rifles could be used in hunting, the articles provided limited recommendations for their use as hunting weapons.

In their usage guides, ammunition manufacturers recommend the .308 and the 7.62 x 39mm cartridges (used in LCMM rifles based on the FN-FAL and HK 91 designs, and the AK47 design respectively) for medium game hunting. However, the usage guides do not identify the 9mm cartridge (used in the Uzi design rifles) as being suitable for hunting.

A majority of the importers who provided information said that the LCMM rifles they import are used for hunting deer and similar animals. However, they provided little evidence that the rifles were especially suitable for hunting these animals. Two of the importers who responded also provided input from citizens in the form of letters supporting this position. The letters show a wide variety of uses for the LCMM rifles, including deer hunting, plinking, target shooting, home defense, and competitive shooting.

Our review of all of this information indicates that while these rifles are used for hunting medium and larger game, as well as for shooting varmints, the evidence was not persuasive that there was widespread use for hunting. We did not find any evidence that the ability to accept a large capacity military magazine serves any hunting purpose. Traditional hunting rifles have much smaller magazine capabilities. Furthermore, the mere fact that the LCMM rifles are used for hunting does not mean that they are particularly suitable for hunting or meet the test for importation.

Use for organized competitive target shooting:

Of the 31 competitive shooting groups we surveyed that stated they have events using high-power semiautomatic rifles, 18 groups stated that they permit the use of the LCMM rifles for all competitions. However, 13 respondents stated that they restrict or prohibit the LCMM rifles for some competitions, and one group stated that it prohibits the LCMM

rifles for all competitions. These restrictions and prohibitions generally were enacted for the following reasons:

1. High-power rifle competitions generally require accuracy at ranges beyond the capabilities of the 9mm cartridge, which is used by the LCMM rifles based on the Uzi design.
2. The models based on the AK47 design are limited to competitions of 200 yards or less because the 7.62 x 39mm cartridge, which is used by these models, generally has an effective range only between 300 and 500 yards.
3. Certain matches require U.S. military service rifles, and none of the LCMM rifles fall into this category.

The LCMM rifles are permitted in all United States Practical Shooting Association (USPSA) rifle competitions. The USPSA Practical Shooting Handbook, Glossary of Terms, states that “[y]ou can use any safe firearm meeting the minimum caliber (9mm/.38) and power factor (125PF) requirements.” The USPSA has stated that “rifles with designs based on the AR15, AK47, FN-FAL, HK91, HK93, and others are allowed and must be used to be competitive.” Moreover, we received some information indicating that the LCMM rifles actually are used in practical shooting competitions.⁷³ However, we did not receive any information demonstrating that an LCMM rifle’s ability to accept large capacity military magazines was necessary for its use in practical shooting competitions.

A couple of the interest groups recommended the LCMM rifles for organized competitive target shooting.

None of the 70 published articles read mentioned the use of the LCMM rifles in organized competitive target shooting.

All of the major ammunition manufacturers produce .308 Winchester ammunition (which is used in the LCMM rifle models based on the HK 91 and FN-FAL designs) and .223 Remington ammunition (which is used in the HK 93, the SIG SG550, and some of the study rifle models based on the AK47 design) specifically for competitive shooting for rifles. The major manufacturers and advertisers of 9mm ammunition (which is used in the LCMM rifles based on the Uzi design) identify it as being suitable for pistol target shooting and self-defense.

⁷³ Merely because a rifle is used in a sporting competition, the rifle does not become a sporting rifle. 114 Cong. Rec. 27461-462 (1968).

A majority of the importers who provided information stated that the LCMM rifles they import are permitted in and suitable for organized competitive target shooting. Two of the importers who responded also provided input from citizens in the form of letters and petitions supporting this position. However, the importers provided little evidence that the rifles were especially suitable for organized competitive target shooting.

The information collected on the actual use of the LCMM rifles for organized competitive target shooting suggests that, with certain exceptions, the LCMM rifles usually may be used and sometimes are used for organized competitive target shooting; however, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use. The use of the rifles in competitive target shooting appears more widespread than for hunting and their use for practical shooting was the most significant. Although we are not convinced that practical shooting does in fact constitute a sporting purpose under section 925(d), we note that there was no information demonstrating that rifles with the ability to accept detachable large capacity military magazines were necessary for use in practical shooting. Once again, the presence of this military feature on LCMM rifles suggests that they are not generally recognized as particularly suitable for or readily adaptable to sporting purposes.

Use in crime:

To fully understand how the LCMM rifles are used, we also examined information available to us on their use in crime. Some disturbing trends can be identified, and it is clear the LCMM rifles are attractive to criminals.

The use of LCMM rifles in violent crime and firearms trafficking is reflected in the cases cited below. It should be noted that the vast majority of LCMM rifles imported during the period 1991-1997 were AK47 variants, which explains their prevalence in the cited cases.

North Philadelphia, Pennsylvania

From April 1995 to November 1996, a convicted felon used a straw purchaser to acquire at least 55 rifles, including a number of MAK90s. The rifles were then trafficked by the prohibited subject to individuals in areas known for their high crime rates. In one case, the rifles were sold from the parking lot of a local elementary school.

Oakland, California

On July 8, 1995, a 32-year-old Oakland police officer assisted a fellow officer with a vehicle stop in a residential area. As the first officer searched the rear compartment of the stopped vehicle, a subject from a nearby residence used a Norinco model NMH 90 to shoot the 32-year old officer in the back. The officer later died from the wound.

El Paso, Texas

On April 15, 1996, after receiving information from the National Tracing Center, ATF initiated an undercover investigation of a suspected firearms trafficker who had purchased 326 MAK90 semiautomatic rifles during a 6-month period. The individual was found to be responsible for illegally diverting more than 1,000 firearms over the past several years. One of the MAK90 rifles that the subject had purchased was recovered from the scene of a 1996 shootout in Guadalajara, Mexico, between suspected drug traffickers and Mexican authorities. Another MAK90 was recovered in 1997 from the residence of a former Mexican drug kingpin following his arrest for drug-related activities.

Charlotte, North Carolina

On May 24, 1996, four armed subjects—one with a MAK90 rifle—carried out a home invasion robbery during which they killed the resident with a 9mm pistol. All four suspects were arrested.

Dallas, Texas

In September 1997, an investigation was initiated on individuals distributing crack cocaine from a federally subsidized housing community. During repeated undercover purchases of the narcotics, law enforcement officials noticed that the suspects had firearms in their possession. A search warrant resulted in the seizure of crack cocaine, a shotgun, and a North China Industries model 320 rifle.

Chesterfield, Virginia

In November 1997, a MAK90 rifle was used to kill two individuals and wound three others at a party in Chesterfield, Virginia.

Orange, California

In December 1997, a man armed with an AKS 762 rifle and two other guns drove to where he was previously employed and opened fire on former coworkers, killing four and injuring three, including a police officer.

Baltimore, Maryland

In December 1997, a search warrant was served on a homicide suspect who was armed at the time with three pistols and a MAK90 rifle.

We also studied import and trace information to learn whether the LCMM rifles are used in crime.

Between 1991 and 1997, there were 425,114 LCMM rifles imported into the United States. This represents 7.6 percent of the approximately 5 million rifles imported during this period. The breakdown of the specific variants of LCMM rifles imported follows:

AK-47 variants:	377,934
FN-FAL variants:	37,534
HK variants:	6,495
Uzi variants:	3,141
SIG SG550 variants:	10

During this same time period, ATF traced 632,802 firearms.⁷⁴ This included 81,842 rifles of which approximately 3,176 were LCMM rifles.⁷⁵ While this number is relatively low compared to the number of total traces, it must be viewed in light of the small number of LCMM rifles imported during this time period and the total number of rifles, both imported domestic, that were available in the United States. A more significant trend is reflected in figure 1.

⁷⁴ ATF traces crime guns recovered and submitted by law enforcement officials. A crime gun is defined, for purposes of firearms tracing, as any firearm that is illegally possessed, used in a crime, or suspected by law enforcement of being used in a crime. Trace information is used to establish links between criminals and firearms, to investigate illegal firearm trafficking, and to identify patterns of crime gun traces by jurisdiction. A substantial number of firearms used in crime are not recovered by law enforcement agencies and therefore not traced. In addition, not all recovered crime guns are traced. Therefore, trace requests substantially underestimate the number of firearms involved in crimes, and trace numbers contain unknown statistical biases. These problems are being reduced as more law enforcement agencies institute policies of comprehensive crime gun tracing.

⁷⁵ The vast majority of LCMM rifles traced during this time period were AK47 variants. Specifically, AK47 variants comprised 95.6 percent of the LCMM rifles traced. This must be viewed within the context that 88 percent of the LCMM rifles imported during this period were AK47 variants.

Firearms Traces 1991-1997

Year	Total Firearms Traced	Total Rifles Traced	Total Assault ⁷⁶ Rifles Traced	Total LCMM Rifles Traced
1991	42,442	6,196	656	7
1992	45,134	6,659	663	39
1993	54,945	7,690	852	182
1994	83,137	9,201	735	596
1995	76,847	9,988	717	528
1996	136,062	17,475	1,075	800
1997	194,235	24,633	1,518	1,024
Cumulative Total	632,802	81,842	6,216	3,176

Figure 1

The figures in this table show that between 1991 and 1994, trace requests involving LCMM rifles increased rapidly, from 7 to 596. During the same period, trace requests for assault rifles increased at a slower rate, from 656 to 735. The years 1991 to 1994 are significant because they cover a period between when the ban on the importation of semiautomatic assault rifles was imposed and before the September 13, 1994, ban on semiautomatic assault weapons was enacted. Thus, during the years leading up to the 1994 ban, traces of LCMM rifles were increasing much more rapidly than the traces of the rifles that had been the focus of the 1989 ban, as well as the rifles that were the focus of the 1994 congressional action.

We also compared patterns of importation with trace requests to assess the association of LCMM rifles with criminal involvement. The comparison shows that importation of LCMM rifles in the early 1990s was followed immediately by a rapid rise in the number of trace requests involving LCMM rifles. This is shown in figures 2 and 3.

⁷⁶ For purposes of this table, assault rifles include (1) semiautomatic assault rifles banned from importation in 1989 but still available domestically because they had been imported into the United States prior to the ban, (2) domestically produced rifles that would not have qualified for importation after 1989, and (3) semiautomatic assault rifles that were banned in 1994.

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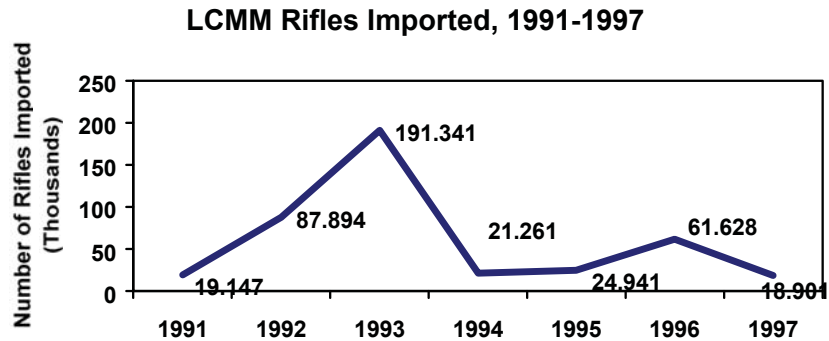


Figure 2

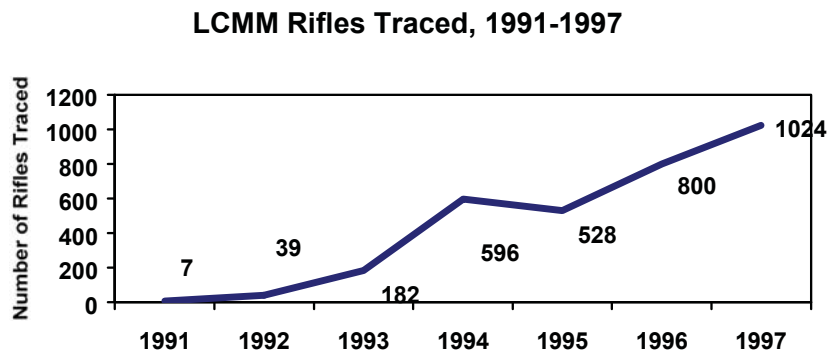


Figure 3

Two aspects of the relationship between importation and trace request patterns are significant. First, the rapid rise in traces following importation indicates that, at least in some cases, very little time elapsed between a particular LCMM rifle's importation and its recovery by law enforcement. This time lapse is known as "time to crime." A short time to crime can be an indicator of illegal trafficking. Therefore, trace patterns suggest what the case examples show: LCMM rifles have been associated with illegal trafficking. Second, while LCMM rifles have not been imported in large numbers since 1994,⁷⁷ the number of trace requests for LCMM rifles continues to rise. This reflects a sustained and

⁷⁷ One reason is that there has been an embargo on the importation of firearms from China since May 1994.

continuing pattern of criminal association for LCMM rifles despite the fact that there were fewer new LCMM rifles available.⁷⁸ Moreover, it is reasonable to conclude that if the importation of LCMM rifles resumes, the new rifles would contribute to the continuing rise in trace requests for them.⁷⁹

All of the LCMM rifles have the ability to accept a detachable large capacity military magazine. Thus, they all have the ability to expend large amounts of ammunition quickly. In passing the 1994 ban on semiautomatic assault rifles and large capacity ammunition feeding devices, Congress found that weapons with this ability are attractive to criminals.⁸⁰ Thus, we can infer that the LCMM rifles may be attractive to criminals because in some ways they remain akin to military assault rifles, particularly in their ability to accept a detachable large capacity military magazine.

⁷⁸ The increase in trace requests also reflects the fact that law enforcement officials were making trace requests for all types of firearms much more frequently beginning in 1996. There were 76,847 trace requests in 1995, 136,062 trace requests in 1996, and 194,235 trace requests in 1997. Traces for assault rifles were increasing by approximately the same percentage as traces for LCMM rifles during these years.

⁷⁹ In addition to looking at case studies and tracing and import information, we attempted to get information on the use of the LCMM rifles in crime by surveying national law enforcement agencies and organizations, as well as metropolitan police departments. Twenty-three national law enforcement agencies and organizations were surveyed and five responded. Three of the respondents stated they had no information. The other two provided information that was either outdated or not specific enough to identify the LCMM rifles.

The 26 metropolitan police departments surveyed provided the following information:

- 17 departments had no information to provide.
- 5 departments stated that the LCMM rifles were viewed as crime guns.
- 1 department stated that the LCMM rifles were nonsporting.
- 2 departments stated that the LCMM rifles were used to hunt coyotes in their areas.
- 1 department stated that the LCMM rifles were used for silhouette target shooting.

⁸⁰ H. Rep. No. 103-489, at 13, 18, 19.

DETERMINATION

In 1989, ATF determined that the type of rifle defined as a semiautomatic assault rifle was not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, ATF found that semiautomatic assault rifles were not importable into the United States. This finding was based, in large part, on ATF's determination that semiautomatic assault rifles contain certain general characteristics that are common to the modern military assault rifle. These characteristics were designed for killing and disabling the enemy and distinguish the rifles from traditional sporting rifles. One of these characteristics is a military configuration, which incorporates eight physical features: Ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF decided that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic assault rifle not importable.

Certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features, except for the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still have the ability to accept a detachable magazine but, more specifically, still have the ability to accept a large capacity military magazine. It appears that only one of the current study rifles, the VEPR caliber .308 (an AK47 variant), does not have the ability to accept a large capacity military magazine and, therefore, is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found not to fall within the semiautomatic assault rifle type and were found to meet the sporting purposes test. Accordingly, these rifles were approved for import into the United States.

Members of Congress and others have expressed concerns that these modified semiautomatic assault rifles are essentially the same as the semiautomatic assault rifles determined to be not importable in 1989. In response to such concerns, the present study reviewed the current application of the sporting purposes test to the study rifles to determine whether the statute is being applied correctly and to ensure that the current use of the study rifles is consistent with the statute's criteria for importability.

Our review took another look at the entire matter. We reexamined the basic tenets of the 1989 study, conducted a new analysis of the physical features of the rifles, surveyed a wide variety of sources to acquire updated information relating to use and suitability, and assessed changes in law that might have bearing on the treatment of the study rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military

configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. The House Report to the 1994 law emphasizes that the ability to accept a large capacity magazine “serve[s] specific, combat-functional ends.”⁸¹ Moreover, this ability plays a role in increasing a firearm’s “capability for lethality,” creating “more wounds, more serious, in more victims.”⁸² Furthermore, the House Report noted semiautomatic assault weapons with this ability are the “weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.”⁸³

Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. The House Report to the 1994 law notes that, while most of the weapons covered by the assault weapon ban come equipped with detachable large capacity magazines, hunting rifles and shotguns typically have much smaller magazine capabilities, from 3 to 5 rounds.⁸⁴ Similarly, we found that a number of States limit magazine capacity for hunting to 5 to 6 rounds. We simply found no information showing that the ability to accept a detachable large capacity military magazine has any purpose in hunting or organized competitive target shooting.

Accordingly, we find that the ability to accept a detachable large capacity military magazine is a critical factor in the sporting purposes test that must be given the same weight as the other military configuration features identified in 1989.

The information we collected on the use and suitability of the LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our study found that the LCMM rifles, as a type, may sometimes be used for hunting, we found no evidence that they are commonly used for hunting. In fact, some of the rifles are unsuitable for certain types of hunting.

⁸¹ H. Rep. No. 103-489, at 18.

⁸² H. Rep. No. 103-489, at 19.

⁸³ H. Rep. No. 103-489, at 13.

⁸⁴ H. Rep. No. 103-489, at 19 (footnote omitted).

The information we collected also demonstrated that although the LCMM rifles, as a type, may be used for organized competitive target shooting, their suitability for these competitions is limited. There are even some restrictions or prohibitions on their use for certain types of competitions. In addition, we believe that all rifles which are fairly typed as LCMM rifles should be treated the same. Therefore, the fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of LCMM rifles as a whole should govern each rifle within this type. The findings as a whole simply did not satisfy the standard set forth in section 925(d)(3).

Finally, the information we gathered demonstrates that the LCMM rifles are attractive to certain criminals. We find that the LCMM rifles' ability to accept a detachable large capacity military magazine likely plays a role in their appeal to these criminals. In enacting the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress recognized the appeal large magazine capacity has to the criminal element.

Weighing all this information, the LCMM rifles, as a type, are not generally recognized as particularly suitable for or readily adaptable to sporting purposes. As ATF found in conducting its 1989 study, although some of the issues we confronted were difficult to resolve, in the end we believe the ultimate conclusion is clear and compelling. The ability of all of the LCMM rifles to accept a detachable large capacity military magazine gives them the capability to expel large amounts of ammunition quickly; this serves a function in combat and crime, but serves no sporting purpose. Given the high standard set forth in section 925(d)(3) and the Secretary's discretion in applying the sporting purposes test, this conclusion was clear.

This decision will in no way preclude the importation of true sporting firearms. It will prevent only the importation of firearms that cannot fairly be characterized as sporting rifles.

Individual importers with existing permits for, and applications to import involving, the LCMM rifles will be notified of this determination in writing. Each of these importers will be given an opportunity to respond and present additional information and arguments. Final action will be taken on permits and applications only after an affected importer has an opportunity to make its case.

Exhibit 1

THE WHITE HOUSE
WASHINGTON

November 14, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic
Assault-Type Rifles

The Gun Control Act of 1968 restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable to sporting purposes. In 1989, the Department of the Treasury (the Department) conducted a review of existing criteria for applying the statutory test based on changing patterns of gun use. As a result of that review, 43 assault-type rifles were specifically banned from importation. However, manufacturers have modified many of those weapons banned in 1989 to remove certain military features without changing their essential operational mechanism. Examples of such weapons are the Galil and the Uzi.

In recent weeks, Members of Congress have strongly urged that it is again necessary to review the manner in which the Department is applying the sporting purposes test, in order to ensure that the agency's practice is consistent with the statute and current patterns of gun use. A letter signed by 30 Senators strongly urged that modified assault-type weapons are not properly importable under the statute and that I should use my authority to suspend temporarily their importation while the Department conducts an intensive, expedited review. A recent letter from Senator Dianne Feinstein emphasized again that weapons of this type are designed not for sporting purposes but for the commission of crime. In addition, 34 Members of the House of Representatives signed a letter to Israeli Prime Minister Binyamin Netanyahu requesting that he intervene to stop all sales of Galils and Uzis into the United States. These concerns have caused the Government of Israel to announce a temporary moratorium on the exportation of Galils and Uzis so that the United States can review the importability of these weapons under the Gun Control Act.

Exhibit 1

2

The number of weapons at issue underscores the potential threat to the public health and safety that necessitates immediate action. Firearms importers have obtained permits to import nearly 600,000 modified assault-type rifles. In addition, there are pending before the Department applications to import more than 1 million additional such weapons. The number of rifles covered by outstanding permits is comparable to that which existed in 1989 when the Bush Administration temporarily suspended import permits for assault-type rifles. The number of weapons for which permits for importation are being sought through pending applications is approximately 10 times greater than in 1989. The number of such firearms for which import applications have been filed has skyrocketed from 10,000 on October 9, 1997, to more than 1 million today.

My Administration is committed to enforcing the statutory restrictions on importation of firearms that do not meet the sporting purposes test. It is necessary that we ensure that the statute is being correctly applied and that the current use of these modified weapons is consistent with the statute's criteria for importability. This review should be conducted at once on an expedited basis. The review is directed to weapons such as the Uzi and Galil that failed to meet the sporting purposes test in 1989, but were later found importable when certain military features were removed. The results of this review should be applied to all pending and future applications.

The existence of outstanding permits for nearly 600,000 modified assault-type rifles threatens to defeat the purpose of the expedited review unless, as in 1989, the Department temporarily suspends such permits. Importers typically obtain authorization to import firearms in far greater numbers than are actually imported into the United States. However, gun importers could effectively negate the impact of any Department determination by simply importing weapons to the maximum amount allowed by their permits. The public health and safety require that the only firearms allowed into the United States are those that meet the criteria of the statute.

Accordingly, as we discussed, you will:

- 1) Conduct an immediate expedited review not to exceed 120 days in length to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test. The results of this review will govern action on pending and future applications for import permits, which shall not be acted upon until the completion of this review.

Exhibit 1

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2) Suspend outstanding permits for importation of modified semiautomatic assault-type rifles for the duration of the 120-day review period. The temporary suspension does not constitute a permanent revocation of any license. Permits will be revoked only if and to the extent that you determine that a particular weapon does not satisfy the statutory test for importation, and only after an affected importer has an opportunity to make its case to the Department.

William J. Clinton

Exhibit 13

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Exhibit 2

STUDY RIFLE MODELS

AK47 Variants:

MAK90*	SA2000
314*	ARM
56V*	MISR
89*	MISTR
EXP56A*	SA85M
SLG74	Mini PSL
NHM90*	ROMAK 1
NHM90-2*	ROMAK 2
NHM91*	ROMAK 4
SA85M	Hunter rifle
SA93	386S
A93	PS/K
AKS 762	VEPR caliber
VEPR	7.62 x 39mm
caliber .308	

FN-FAL Variants:

Saiga rifle	L1A1 Sporter
Galil Sporter	FAL Sporter
Haddar	FZSA
Haddar II	SAR4800
WUM 1	X FAL
WUM 2	C3
SLR95	C3A
SLR96	LAR Sporter
SLR97	
SLG94	
SLG95	
SLG96	

HK Variants:

BT96
Centurian 2000
SR9
PSG1
MSG90
G3SA
SAR8

Uzi Variants:

Officers 9*
320 carbine*
Uzi Sporter

SIG SG550 Variants:

SG550-1
SG550-2

- These models were manufactured in China and have not been imported since the 1994 embargo on the importation of firearms from China.

Exhibit 3

STUDY RIFLES

The study rifles are semiautomatic firearms based on the AK47, FN-FAL, HK 91 and 93, Uzi, and SIG SG550 designs. Each of the study rifles is derived from a semiautomatic assault rifle. The following are some examples of specific study rifle models grouped by design type. In each instance, a semiautomatic assault rifle is shown above the study rifles for comparison.

AK47 Variants



AK47 semiautomatic assault rifle



MISR



ARM



MAK90



WUM 1

Exhibit 3

FN-FAL Variants



FN-FAL semiautomatic assault rifle



L1A1 Sporter



SAR 4800

HK 91 and 93 Variants



HK91 semiautomatic assault rifle



SR9



SAR 8

Exhibit 3

Uzi Variants



Uzi semiautomatic assault rifle



320 carbine

SIG SG550 Variants

The following illustration depicts the configuration of a semiautomatic assault rifle based on the SIG SG550 design. No illustrations of modified semiautomatic versions are available.



SIG SG550 semiautomatic assault rifle

Exhibit 4

DEPARTMENT OF THE TREASURY BUREAU OF ALCOHOL, TOBACCO AND FIREARMS					
FACTORING CRITERIA FOR WEAPONS					
NOTE: The Bureau of Alcohol, Tobacco and Firearms reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.					
PISTOL			REVOLVER		
MODEL:			MODEL:		
PREREQUISITES			PREREQUISITES		
1. The pistol must have a positive manually operated safety device. 2. The combined length and height must not be less than 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6"			1. Must pass safety test. 2. Must have overall frame (with conventional grips) length (not diagonal) of 4 1/4" minimum. 3. Must have a barrel length of at least 3".		
INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL	INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL
OVERALL LENGTH			BARREL LENGTH (Muzzle to Cylinder Face)		
FOR EACH 1/4" OVER 6"	1		LESS THAN 4"	0	
FRAME CONSTRUCTION			FOR EACH 1/4" OVER 4"	1/2	
INVESTMENT CAST OR FORGED STEEL	15		FRAME CONSTRUCTION		
INVESTMENT CAST OR FORGED HTS ALLOY	20		INVESTMENT CAST OR FORGED STEEL	15	
WEAPON WEIGHT W/MAGAZINE (Unloaded)			INVESTMENT CAST OR FORGED HTS ALLOY	20	
PER OUNCE	1		WEAPON WEIGHT (Unloaded)		
CALIBER			PER OUNCE	1	
.22 SHORT AND .25 AUTO	0		CALIBER		
.22 LR AND 7.65mm TO .380 AUTO	3		.22 SHORT TO .25 ACP	0	
9mm PARABELLUM AND OVER	10		.22 LR AND .30 TO .38 S&W	3	
SAFETY FEATURES			.38 SPECIAL	4	
LOCKED BREECH MECHANISM	5		.357 MAG AND OVER	5	
LOADED CHAMBER INDICATOR	5		MISCELLANEOUS EQUIPMENT		
GRIP SAFETY	3		ADJUSTABLE TARGET SIGHTS (Drift or Click)	5	
MAGAZINE SAFETY	5		TARGET GRIPS	5	
FIRING PIN BLOCK OR LOCK	10		TARGET HAMMER AND TARGET TRIGGER	5	
MISCELLANEOUS EQUIPMENT			SAFETY TEST		
EXTERNAL HAMMER	2		A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spud, a total of 5 times.		
DOUBLE ACTION	10				
DRIFT ADJUSTABLE TARGET SIGHT	5				
CLICK ADJUSTABLE TARGET SIGHT	10				
TARGET GRIPS	5				
TARGET TRIGGER	2				
SCORE ACHIEVED (Qualifying score is 75 points)			SCORE ACHIEVED (Qualifying score is 45 points)		

Exhibit 13

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Exhibit 5

MILITARY CONFIGURATION

1. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. Additionally, some States have a limit on the magazine capacity allowed for hunting, usually five or six rounds.
2. Folding/telescoping stock. Many military firearms incorporate folding or telescoping stocks. The main advantage of this item is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded position, yet it cannot be fired nearly as accurately as with an open stock. With respect to possible sporting uses of this feature, the folding stock makes it easier to carry the firearm when hiking or backpacking. However, its predominant advantage is for military purposes, and it is normally not found on the traditional sporting rifle.
3. Pistol grips. The vast majority of military firearms employ a well-defined separate pistol grip that protrudes conspicuously beneath the action of the weapon. In most cases, the “straight line design” of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can be an aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or organized competitive target competitions.
4. Ability to accept a bayonet. A bayonet has distinct military purposes. First, it has a psychological effect on the enemy. Second, it enables soldiers to fight in close quarters with a knife attached to their rifles. No traditional sporting use could be identified for a bayonet.
5. Flash suppressor. A flash suppressor generally serves one or two functions. First, in military firearms it disperses the muzzle flash when the firearm is fired to help conceal the shooter’s position, especially at night. A second purpose of some flash suppressors is to assist in controlling the “muzzle climb” of the rifle, particularly when fired as a fully automatic weapon. From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Flash suppressors that also serve to dampen muzzle climb have a limited benefit in sporting uses by allowing the shooter to reacquire

Exhibit 5

the target for a second shot. However, the barrel of a sporting rifle can be modified by "magna-porting" to achieve the same result. There are also muzzle attachments for sporting firearms to assist in the reduction of muzzle climb. In the case of military-style weapons that have flash suppressors incorporated in their design, the mere removal of the flash suppressor may have an adverse impact on the accuracy of the firearm.

6. Bipods. The majority of military firearms have bipods as an integral part of the firearm or contain specific mounting points to which bipods may be attached. The military utility of the bipod is primarily to provide stability and support for the weapon when fired from the prone position, especially when fired as a fully automatic weapon. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles generally do not come equipped with bipods, nor are they specifically designed to accommodate them. Instead, bipods for sporting firearms are generally designed to attach to a detachable "slingswivel mount" or simply clamp onto the firearm.
7. Grenade launcher. Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the rifle by either screws or clamps. No traditional sporting application could be identified for a grenade launcher.
8. Night sights. Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness. Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally not legal to hunt at night.

Exhibit 6

[This document has been retyped for clarity.]

MEMORANDUM TO FILE

FIREARMS ADVISORY PANEL

The initial meeting of the Firearms Advisory Panel was held in Room 3313, Internal Revenue Building, on December 10, 1968, with all panel members present. Internal Revenue Service personnel in attendance at the meeting were the Director, Alcohol and Tobacco Tax Division, Harold Serr; Chief, Enforcement Branch, Thomas Casey; Chief, Operations Coordination Section, Cecil M. Wolfe, and Firearms Enforcement Officer, Paul Westenberger. Deputy Assistant Commissioner Compliance, Leon Green, visited the meeting several times during the day.

The Director convened the meeting at 10:00 a.m. by welcoming the members and outlining the need for such an advisory body. He then introduced the Commissioner of Internal Revenue, Mr. Sheldon Cohen, to each panel member.

Mr. Cohen spoke to the panel for approximately fifteen minutes. He thanked the members for their willingness to serve on the panel, explained the role of the panel and some of the background which led to the enactment of the Gun Control Act of 1968. Commissioner Cohen explained to the panel members the conflict of interest provisions of regulations pertaining to persons employed by the Federal Government and requested that if any member had any personal interest in any matter that came under discussion or consideration, he should make such interest known and request to be excused during consideration of the matter.

Mr. Seer then explained to the panel the areas in which the Division would seek the advice of the panel and emphasized that the role of the panel would be advisory only, and that it was the responsibility of the Service to make final decisions. He then turned the meeting over to the moderator, Mr. Wolfe.

Mr. Wolfe explained the responsibility of the Service under the import provisions of the Gun Control Act and under the Mutual Security Act. The import provisions were read and discussed.

The panel was asked to assist in defining Asporting purposes≡ as used in the Act. It was generally agreed that firearms designed and intended for hunting and all types of organized competitive target shooting would fall within the sporting purpose category. A discussion was held on the so-called sport of Apling≡. It was the consensus that, while many persons

Exhibit 6

participated in the type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation since any firearm that could expel a projectile could be used for this purpose without having any characteristics generally associated with target guns.

The point system that had been developed by the Division and another point system formula suggested and furnished by the Southern Gun Distributors through Attorney Michael Desalle, was explained and demonstrated to the panel by Paul Westenberger. Each panel member was given copies of the formulas and requested to study them and endeavor to develop a formula he believed would be equitable and could be applied to all firearms sought to be imported.

A model BM59 Beretta, 7.62 mm, NATO Caliber Sporter Version Rifle was presented to the panel and their advice sought as to their suitability for sporting purposes. It was the consensus that these rifles do have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of this rifle together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle be authorized for importation. Importation, however, should include the restriction that these weapons must not possess combination flash suppressors/grenade adaptors with outside diameters greater than 20mm (.22 mm is the universal grade adaptor size).

The subject of ammunition was next discussed. Panel members agreed that incendiary and tracer small arms ammunition have no use for sporting purposes. Accordingly, the Internal Revenue Service will not authorize these types of small arms ammunition importation. All other conventional small arms ammunition for pistols, revolvers, rifles and shotguns will be authorized.

The meeting was adjourned at 4:00 p.m.

C.M. Wolfe

Exhibit 7

STATE FISH AND GAME COMMISSION REVIEW

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Alabama	Not for turkey	
Alaska		
Arizona		Not more than five rounds
Arkansas	Not for turkey	
California		
Colorado		Not more than six rounds
Connecticut*	No rifles on public land	
Delaware	No rifles	
Florida		Not more than five rounds
Georgia	Not for turkey	
Hawaii		
Idaho	Not for turkey	
Illinois	Not for deer or turkey	
Indiana*	Not for deer or turkey	
Iowa	Not for deer or turkey No restrictions on coyote or fox	
Kansas		
Kentucky		
Louisiana	Not for turkey	
Maine*	Not for turkey	
Maryland*		

Exhibit 7

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Massachusetts	Not for deer or turkey	
Michigan	Not for turkey	Not more than six rounds
Minnesota		
Mississippi	Not for turkey	
Missouri	Not for turkey	Chamber and magazine not more than 11 rounds
Montana		
Nebraska		Not more than six rounds
Nevada	Not for turkey	
New Hampshire*	Not for turkey	Not more than five rounds
New Jersey	No rifles	
New Mexico	Not for turkey	
New York*		Not more than six rounds
North Carolina	Not for turkey	
North Dakota	Not for turkey	
Ohio	Not for deer or turkey	
Oklahoma		Not more than seven rounds for .22 caliber
Oregon*		Not more than five rounds
Pennsylvania*	No semiautomatics	

Exhibit 7

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Rhode Island	Prohibited except for woodchuck in summer	
South Carolina	Not for turkey	
South Dakota		Not more than five rounds
Tennessee	Not for turkey	
Texas		
Utah	Not for turkey	
Vermont		Not more than six rounds
Virginia*		
Washington	Not for turkey	
West Virginia		
Wisconsin		
Wyoming		

* Limited restrictions (e.g., specified areas, county restrictions, populated areas, time of day).



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

O:F:S:DMS
3310


Dear Sir or Madam:

On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The firearms in question are semiautomatic rifles based on the AK47, FN-FAL, HK91, HK93, SIG SG550-1, and Uzi designs.

As part of the review, the Bureau of Alcohol, Tobacco and Firearms (ATF) is interested in receiving information that shows whether any or all of the above types of semiautomatic rifles are particularly suitable for or readily adaptable to hunting or organized competitive target shooting. We are asking that you voluntarily complete the enclosed survey to assist us in gathering this information. We anticipate that the survey will take approximately 15 minutes to complete.

Responses must be received no later than January 9, 1998; those received after that date cannot be included in the review. Responses should be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Department HG, P.O. Box 50860, Washington, DC 20091. We appreciate any information you care to provide.

Sincerely yours,


John W. Magaw
Director

Enclosure

ATF SURVEY OF HUNTING GUIDES FOR RIFLE USAGE

Page 1 of 2

*Please report only on those clients who **hunted medium game (for example, turkey) or larger game (for example, deer) with a rifle.***

For the purposes of this survey, please count only individual clients and NOT the number of trips taken by a client. For example, if you took the same client on more than one trip, count the client only once.

1. What is the approximate number of your clients who have ever used **manually operated rifles** during the past two hunting seasons of 1995 and 1996?

_____ number of clients.

2. What is the approximate number of your clients who have ever used **semiautomatic rifles** during the past two hunting seasons of 1995 and 1996?

_____ number of clients.

3. What is the approximate number of your clients who have ever used semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** during the past two hunting seasons of 1995 and 1996?

_____ number of clients.

4. From your knowledge, for your clients who use **semiautomatic rifles**, please list the three most commonly used rifles.

MakeModelCaliber

5. Do you **recommend** the use of any specific rifles by your clients?

_____ Yes (Continue to #6)

_____ No (You are finished with the survey. Thank you.)

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.

ATF SURVEY OF HUNTING GUIDES
FOR RIFLE USAGE

Page 2 of 2

6. If your answer to item 5 is "Yes", please identify the specific rifles you **recommend**.

Make

Model

Caliber

7. Do you **recommend** the use of any semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi**?

☐ Yes (Continue to #8)

☐ No (You are finished with the survey. Thank you.)

8. If your answer to item 7 is "Yes", please identify the specific rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** that you recommend.

Make

Model

Caliber

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.

Hunting Guides

case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 1	28	0	0	No	
A 2	100	10	0	Yes	No
A 3	18	0	0	No	
A 4	120	40	0	Yes	No
A 5	12	0	0	Yes	No
A 6	80	40	0	No	
A 7	275	25	0	No	
A 8					
A 9	0	0	0		
A 10	0				
A 11	2	5	0	Yes	Yes
A 12	12	0	0	Yes	No
A 13	10	6	0	No	No
A 14	5	7	0	No	
A 15	0	0	0		
A 16	20	0	0	No	No
A 17					
A 18	0	0	0	No	
A 19	17	6	0	No	
A 20	30	8	0	No	
A 21	117	7	0	Yes	No
A 22	160	0	0	Yes	No
A 23	23	1	0	Yes	No
A 24	100	5	0	Yes	No
A 25	210	10	0	Yes	No
A 26	12	4	1	Yes	Yes
A 27	24	3	0	Yes	No
A 28	20	15	0	Yes	No
A 29	4	0	0	No	No
A 30	4	0	0	Yes	No
A 31	100	5	0	No	No
A 32	1	0	0	No	No
A 33			0	No	No
A 34	142	1	0	No	
A 35	78	2	0	Yes	No
A 36	600	200		No	
A 37	20	13	1	No	
A 38	45	15	0	No	
A 39	100	10	0	No	
A 40	80	6	2	Yes	No
A 41	250	25	0	Yes	No
A 42	4	0	0	No	
A 43	14	2	0	No	No
A 44	171	15	0	Yes	No
A 45	54	6	0	Yes	No
A 46	10	6	0	No	
A 47	0	0	0	No	No
A 48	24	0	0	No	
A 49	180	2	0	Yes	No
A 50					
A 51					

Hunting Guides

case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 52	24	16	0	No	
A 53	600	100	12	No	
A 54	18	6	0	No	
A 55	0	0	0	No	
A 56	0	0	0	No	
A 57	40	4	0	No	
A 58					
A 59	40	10	0	No	No
A 60	60	2	0	No	No
A 61	63	4	0	Yes	No
A 62	40	4	0	No	
A 63	8	0	0	Yes	No
A 64	27	1	0	Yes	No
A 65	50	9	0	Yes	No
A 66	35	2	0	No	
A 67	6	0	0	Yes	No
A 68	6	3		No	
A 69	50	20	0	No	
A 70		0	0	Yes	No
A 71	27	1	0	Yes	
A 72	85	0	0	Yes	No
A 73	56	24	0	Yes	No
A 74	25	25	0	Yes	No
A 75	100	20	0	No	
A 76	50	15	3	No	
A 77	15	4	0	No	
A 78	12	0	0	Yes	No
A 79	75	0	0	No	
A 80					
A 81	0	0	0	No	
A 82	0	0	0	No	
A 83	12	4	0	No	No
A 84	40	0	0	Yes	No
A 85	24	0	0	No	
A 86	17	0	0	No	No
A 87	16	3	0	Yes	No
A 88	45	10	0	No	
A 89	11	7	7	Yes	Yes
A 90	35	1	0	Yes	No
A 91	25	2	0	Yes	No
A 92	0	0	0		
A 93	75	40	0	Yes	No
A 94	60	2	0	Yes	No
A 95	26	0	0	No	
A 96	20	0		No	No
A 97	65	11	0	Yes	No
A 98	40	5	0	Yes	No
A 99	26	5	0	No	
A 100	13	2	0	No	
A 101					
A 102	45	6	0	No	No

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case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 103	120	4	0	No	
A 104				Yes	
A 105	150	50	0	No	No
A 106	80	20	0	Yes	No
A 107	40	0	0	No	No
A 108	10	0	0	No	
A 109	160	40	0	Yes	No
A 110	10	10	0	No	No
A 111	6	0	0	No	
A 112					
A 113	150	150	100	Yes	Yes
A 114	50	25	0	No	No
A 115	19	0	0	Yes	No
A 116	80	3	0	No	
A 117	40	10	0	Yes	No
A 118					
A 119	50	0	0	Yes	No
A 120	0	0	0	No	
A 121	0	0	0		
A 122	120	15	0	Yes	No
A 123	10	0	0	Yes	No
A 124	22	0	0	Yes	No
A 125	40	40	20	No	
A 126	50	10	0	Yes	No
A 127	60	20	0	Yes	No
A 128	14	0	0	No	No
A 129	13	16	4	No	
A 130	80	4	0	Yes	No
A 131	12	2	0	Yes	No
A 132		4	0	Yes	No
A 133	50	26	7	No	No
A 134	12	0	0	No	
A 135	2	10	3	No	
A 136	2	1	1	Yes	No
A 137	28	0	0	Yes	No
A 138	45	10		No	
A 139	46	59	0	Yes	No
A 140			0	Yes	No
A 141	40	10	0	No	No
A 142	70	20	0	Yes	No
A 143	50	3	0	No	No
A 144	60	6	0	Yes	No
A 145	140	0	0	Yes	No
A 146	20	4	1	Yes	No
A 147	10	1	0	Yes	No
A 148	0	0	0	No	No
A 149	37	0	0	Yes	No
A 150			0	Yes	No
A 151	6	10	0	No	No
A 152	110	5	0	No	
A 153	15	17		Yes	No

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case	Number of clients Using			Recommend	
	Manual	Semiauto	AK47 et.al.	Any	AK47 et.al.
A 154	18	4	0	No	
A 155	25	3	0	Yes	No
A 156	60	6	3	No	
A 157	20	0	0	No	
A 158	88	46	0	No	No
A 159	68	19	3	Yes	Yes
A 160	25	5	0	No	
A 161	15	0	0	No	
A 162	75	10	0	No	
B 1				No	
C 1	25	0	0	Yes	No
C 2	55	10	6	Yes	Yes
C 3	60	30	0	No	
C 4	80	20	0	No	
C 5	10	0	0	No	No
C 6	25	6	0	No	
C 7	66	10	1	No	
C 8	24	0	0	Yes	No
C 9	10	15	15	No	
C 10	35	15	9	Yes	Yes
C 11			0	No	
C 12					No
C 13	25	10	0	No	
C 14	60	20	0	Yes	No
C 15	20	0	0	Yes	No
C 16	14	0	0	No	
C 17		0	0	Yes	No
C 18	18	25	5	Yes	Yes
C 19	125	50	5	Yes	No
C 20	20	5	2	No	
C 21		0	0	Yes	No
C 22	30	0	0	No	No
C 23	150	20	0	Yes	No
C 24	60	0	0	No	
C 25	16	7	6	Yes	Yes
C 26	300	650	400	No	
C 27	20	15	8	Yes	Yes
C 28	3	5	2	No	
C 29	45	6	0	Yes	No
C 30				No	
C 31	30	0	0	Yes	No
C 32			0	Yes	No
C 33	35	4	0	Yes	No
C 34	25	5	0	Yes	No
C 35				Yes	No

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Q4. Three most commonly used rifles				
case	Make	Other Make	Model	Caliber
A 1				
A 2				
A 3				
A 4	Browning		BAR	300
A 5				
A 6	Remington		742	30.06
A 7	Browning		BAR	30.06, .270, 7MM, 300 Mag
A 8				
A 9				
A 10				
A 11	Remington		740-7400	20, 30
A 12				
A 13	Remington		700	7 mm mag
A 14	Remington		7400	270
A 15				
A 16				
A 17				
A 18				
A 19	Browning			30.06
A 20	Remington		742	30.06
A 21				
A 22				
A 23	Browning		?	300 mag
A 24	Remington			30.06
A 25	Remington			30.06
A 26	Browning		BAR	30.06
A 27	Remington			30.06
A 28		?	?	06
A 29				
A 30				
A 31	Browning		automatics	
A 32				
A 33				
A 34	Remington			.3006
A 35	Browning			7 mm
A 36	Browning			30.06
A 37	Browning		BAR	30.06
A 38	Browning		br	7 mm, 300win, 30.06
A 39	Remington		7600	.270 win, .30-06, .280 rem
A 40	Browning		Bar mark II	300 win mag
A 41	Remington			
A 42				
A 43	Remington		7600	243 - 7 mm mag
A 44				30.06, 300 winmag, .338, 270
A 45	Browning		BAR Automatic	30.06

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Q4. Three most commonly used rifles				
A 46	Browning		BAR	7 mm, 30.06
A 47				
A 48				
A 49				
A 50				
A 51				
A 52	Browning		BAR	7 mm mag/30.06
A 53	Browning		BAR	30.06, 300 wm
A 54	Browning		BAR	30.06
A 55				
A 56				
A 57	Browning		semi-auto	300 mag
A 58				
A 59				
A 60				
A 61	Browning			30.06
A 62	Browning			7 mm
A 63	Browning		BAR	.270 - 300 win mag
A 64	Browning		BAR	30.06
A 65	Browning		semi-auto	.308
A 66	Browning			
A 67				
A 68	Remington		7400	30.06
A 69	Browning			
A 70				
A 71	Browning		Not sure	
A 72				
A 73	Browning		BARR	30.06
A 74	Browning		BAR	300
A 75	Remington		7400 old 752	270 and 30.06
A 76	Browning		BAR	308, 30.06, 300win, 338 win
A 77	Remington			308
A 78	Browning			300, 270, 30.06
A 79				
A 80				
A 81				
A 82				
A 83				30 caliber or bigger for elk
A 84				
A 85				
A 86				
A 87	Browning			30.06 and 7 mm
A 88	Browning		BAR	7 mm, .300, .270
A 89	Other	Russian	SKS	7.62
A 90	Browning			1 or 2 in over 50 years
A 91	Browning			300 win mag

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Q4. Three most commonly used rifles				
A 92				
A 93				
A 94	Browning		BAR	
A 95				
A 96				
A 97	Browning		BAR	300-06-270
A 98	Browning			300, 30.06
A 99	Other	Savage		7 mm
A 100	Browning		?	7 mm mag
A 101				
A 102	Browning	Only 1 I recall	BAR	30.06
A 103				
A 104				
A 105				
A 106	Browning		BAR	300 win mag
A 107				
A 108				
A 109	Browning			30.06
A 110	Remington		700	30.06, 270, 7 mm
A 111				
A 112				
A 113	Other	Weatherby		300 mag
A 114	Browning			7 m mag
A 115				
A 116				
A 117	Browning			
A 118				
A 119				
A 120				
A 121				
A 122	Browning		U/K	.338 mag
A 123				
A 124				
A 125				
A 126	Remington		742	243, 30.06
A 127	Winchester		?	30.06
A 128	Winchester			270, 306
A 129	Browning		BAR	7 mm and 243
A 130	Browning			30.06
A 131	Browning		BAR	.7 mm mag
A 132	Remington			30.06
A 133			AK 47	223
A 134				
A 135	Remington			270
A 136	Browning		BAR	
A 137				

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Q4. Three most commonly used rifles				
A 138	Winchester			30.06
A 139	Browning		BAR	270, 7 mm
A 140	Browning			7 mm
A 141				
A 142	Browning			7 mm mag
A 143				
A 144	Browning			30.06
A 145				
A 146	Browning		BDL	7mg
A 147	Browning		BAR	308
A 148				
A 149				
A 150	Remington			
A 151	Browning		BAR	308
A 152	Remington			various 270 - 338
A 153	Browning			30
A 154	Browning		BAR	7 mm mag
A 155				30.06
A 156	Other	BAR		
A 157				
A 158	Remington		280	280
A 159	Browning			7 mm mag
A 160	Remington		Semiauto	30.06
A 161				
A 162	Browning			30.06
B 1				.308, 30-06, .270
C 1				
C 2	Other	AK-47	Antelope Hunter	30
C 3	Browning		Auto	30.06
C 4	Browning		Bar	7mm
C 5				
C 6				
C 7	Browning			30.06
C 8				
C 9	Other	FN-FAL		308
C 10	Remington		742	30.06
C 11	Browning			306
C 12				
C 13	Remington			.06 - 7mm
C 14	Browning		BAR	7mm
C 15				
C 16				
C 17				
C 18	Ruger		Ranch Rifle	223
C 19	Other	AK47		
C 20	Browning		BAR	300 win mag

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Q4. Three most commonly used rifles				
C 21	Other	Bolt-action or pump		
C 22				
C 23	Browning			30.06
C 24				
C 25	Other	AK47		7.62-39
C 26	Other	HK	93	.308
C 27	Browning		BAR	7mm
C 28	Other	Norinco	SKS Type 56	7.62X39
C 29	Browning		BAR	30.06 -.300
C 30				
C 31				
C 32	Browning			3.06 - 7mm
C 33	Remington			30.06
C 34	Remington		741	.270 - 30.06
C 35	Remington			.270
A 1				
A 2				
A 3				
A 4	Remington		7400	30.06
A 5				
A 6	Browning			30.06
A 7	Remington		700	30.03, 270, 7 mm
A 8				
A 9				
A 10				
A 11	Winchester		100	30
A 12				
A 13	Winchester		70	300 mag
A 14	Remington		7400	30.06
A 15				
A 16				
A 17				
A 18				
A 19	Remington		7400	30.06
A 20	Browning			7 mm mag
A 21				
A 22				
A 23				
A 24	Browning			30.06
A 25	Browning			30.03 to 300 mag
A 26	Remington		Fieldmaster	30.06
A 27				
A 28				
A 29				
A 30				
A 31	Remington		automatics	

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Q4. Three most commonly used rifles				
A 32				
A 33				
A 34				
A 35				
A 36	Remington			270 - 30.06
A 37	Remington		7400	30.06
A 38				
A 39	Browning		BAR	.270 win, 7 mm mag
A 40	Remington		7400	30.06
A 41	Browning			
A 42				
A 43	Browning		BAR	243 - 7 mm mag
A 44				
A 45				
A 46	Remington		1100	12 gauge
A 47				
A 48				
A 49				
A 50				
A 51				
A 52	Remington		7400	30.06
A 53	Remington		7400/742	30.06
A 54				
A 55				
A 56				
A 57	Remington		semi-auto	30.06
A 58				
A 59				
A 60				
A 61	Other	Savage		7 mm mag
A 62	Remington			30.06
A 63	Remington		742	.270 - 30.06
A 64				
A 65	Winchester		semi-auto	.308
A 66	Remington			
A 67				
A 68	Remington		7400	.308
A 69	Remington			
A 70				
A 71	Remington		742	30.06
A 72				
A 73	Remington			30.06
A 74	Remington		?600	30.06
A 75	Browning		BAR	270/338 and 30.06
A 76	Other	AK-47		30
A 77	Remington			30.06

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Q4. Three most commonly used rifles				
A 78	Remington		?	300, 270, 30.06
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Remington			30.06
A 88	Remington		742, 7400	30.06, .270
A 89	Other	Heckler-Koch	HK91	308
A 90	Remington			
A 91	Remington			30.06
A 92				
A 93				
A 94				
A 95				
A 96				
A 97				
A 98	Remington		760	.300, 30.06, 270
A 99	Browning			7 mm
A 100	Remington		742	30.06
A 101				
A 102				
A 103				
A 104				
A 105				
A 106				
A 107				
A 108				
A 109	Winchester			308
A 110				
A 111				
A 112				
A 113	Remington		700	7 mm mag
A 114	Remington		742 Wingmaster	30.06
A 115				
A 116				
A 117	Remington			
A 118				
A 119				
A 120				
A 121				
A 122				
A 123				

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Q4. Three most commonly used rifles				
A 124				
A 125				
A 126	Ruger		22	
A 127	Marlin		?	.308
A 128	Remington			7 m
A 129				
A 130				
A 131	Browning		BAR	30.06
A 132				
A 133	Ruger		Mini 14	223
A 134				
A 135	Remington			243
A 136	Other	HK 91		
A 137				
A 138	Browning			308
A 139	Remington		742	30.06 - 6 mm
A 140	Remington			30.06
A 141				
A 142	Browning			300 win mag
A 143				
A 144	Browning			7 mm mag
A 145				
A 146	Browning		BDL	300
A 147				
A 148				
A 149				
A 150	Winchester			
A 151	Remington		742	30.06
A 152	Ruger			various 270 - 338
A 153	Winchester			30
A 154	Browning		BAR	30.06
A 155				
A 156	Other	AK-47		
A 157				
A 158	Winchester			338
A 159	Remington			30.06
A 160				
A 161				
A 162	Remington		742	30.06, 270
B 1				
C 1				
C 2				
C 3	Winchester		Auto	30.06
C 4	Browning		Bar	338
C 5				
C 6				

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Q4. Three most commonly used rifles				
C 7	Remington			30.06
C 8				
C 9	Other	Uzi		9mm
C 10	Other	AK-47	Hunter	7.62x39
C 11	Other	Weatherby		300
C 12				
C 13	Winchester			.06 - 7mm
C 14	Browning			300
C 15				
C 16				
C 17				
C 18	Other	AK-47		
C 19	SigArms		550-1	
C 20	Ruger		Mini 14	.223
C 21				
C 22				
C 23	Remington		742	30.06
C 24				
C 25	Other	MAK-90		7.62-39
C 26	Other	HK	91	0.223
C 27	Remington		7400 Series	30.06
C 28	Remington		7600	30.06
C 29	Remington		742	.308 - 3.06
C 30				
C 31				
C 32	Remington			30.06 - 7mm
C 33	Browning			300 win
C 34	Browning			.270 - 30.06
C 35	Browning			300
A 1				
A 2				
A 3				
A 4	Ruger		Mini 14	223
A 5				
A 6	Other	Savage		270
A 7				
A 8				
A 9				
A 10				
A 11				
A 12				
A 13	Browning		A-bolt	270
A 14				
A 15				
A 16				
A 17				

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Q4. Three most commonly used rifles					
A 18					
A 19					
A 20					
A 21					
A 22					
A 23					
A 24					
A 25					
A 26	Other	China	SKS		7.62x37
A 27					
A 28					
A 29					
A 30					
A 31					
A 32					
A 33					
A 34					
A 35					
A 36	Winchester				270 - 30.06
A 37					
A 38					
A 39					
A 40	Ruger				44 mag
A 41					
A 42					
A 43	Ruger				223 - 30.06
A 44					
A 45					
A 46					
A 47					
A 48					
A 49					
A 50					
A 51					
A 52					
A 53	Ruger		Mini-14		.223
A 54					
A 55					
A 56					
A 57	Ruger		semi-auto		35 cal
A 58					
A 59					
A 60					
A 61					
A 62	Ruger		Mini 14		223
A 63					

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Q4. Three most commonly used rifles				
A 64				
A 65				
A 66				
A 67				
A 68				
A 69				
A 70				
A 71				
A 72				
A 73				
A 74	Browning		BAR	30.06
A 75				
A 76	Remington			30.06, 270
A 77	Browning			300
A 78				
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87				
A 88				
A 89	Other	Springfield Armory	FNG	308
A 90				
A 91				
A 92				
A 93				
A 94				
A 95				
A 96				
A 97				
A 98				
A 99				
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106				
A 107				
A 108				
A 109				

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Q4. Three most commonly used rifles				
A 110				
A 111				
A 112				
A 113	Other	All		30.06
A 114	Remington		721	270
A 115				
A 116				
A 117				
A 118				
A 119				
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126	Browning	Remington	Shotguns	12 gauge
A 127	Remington			.308 or 30.06
A 128	Other	Savage		308
A 129				
A 130				
A 131				
A 132				
A 133	Browning		BAR	7 mm
A 134				
A 135	Browning		742	30.06
A 136	Other	AK 47		
A 137				
A 138				
A 139	Other	Weatherby		300 m
A 140				
A 141				
A 142				
A 143				
A 144				
A 145				
A 146	Ruger		#1	7 mag
A 147				
A 148				
A 149				
A 150	Browning			
A 151				
A 152	Browning			various 270 - 338
A 153				
A 154	Browning		BAR	8 mm mag
A 155				

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Q4. Three most commonly used rifles				
A 156	Other	Uzi		
A 157				
A 158	Browning			300
A 159				
A 160				
A 161				
A 162				
B 1				
C 1				
C 2				
C 3	Browning		Auto	270
C 4	Browning		Bar	300
C 5				
C 6				
C 7				
C 8				
C 9	Other	HK91		
C 10	Browning		BAR	30.06
C 11				
C 12				
C 13	Browning			300
C 14				
C 15				
C 16				
C 17				
C 18				
C 19				
C 20	Other	AK47		7.62 x 39
C 21				
C 22				
C 23	Remington		742	308, 270
C 24				
C 25		M1-A1		.223
C 26				
C 27	Winchester	Various	M1 Garand	30.06
C 28				
C 29			M1A1	30.06
C 30				
C 31				
C 32				
C 33				
C 34				
C 35				

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 1				
A 2	Ruger			30.06
A 3				
A 4	Other	Weatherby	Mark V	300
A 5				30.06
A 6				
A 7				
A 8				
A 9				
A 10				
A 11				
A 12				
A 13				
A 14				
A 15				
A 16				
A 17				
A 18				
A 19				
A 20				
A 21	Winchester			30.06, .270
A 22	Remington		700	7 mm or larger
A 23	Winchester		70	25 to 30
A 24	Remington		710	30.06
A 25		Any make	Bolt action	Does not recommend
A 26	Winchester		70	30.06 or larger
A 27	Other	Weatherby		300
A 28	Other	bolt action		270 and up
A 29				
A 30		hunter's choice		.270
A 31				
A 32				
A 33				
A 34				
A 35	Winchester		70	300 win mag
A 36				
A 37				
A 38				
A 39				
A 40	Remington			30.06 - 300 win mag
A 41				
A 42				
A 43				
A 44				30.06, 300winmag, 338, 270
A 45	Browning		Bolt Action	25.06 - 328

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 46				
A 47				
A 48				
A 49	Other	Weatherby		300 mag
A 50				
A 51				
A 52				
A 53				
A 54				
A 55				
A 56				
A 57				
A 58				
A 59				
A 60				
A 61	Remington		Bolt Action	300 mag
A 62				
A 63	Other	bolt action repeating rifles		30.06 to .338 winmag
A 64	Winchester		70	338
A 65	Remington		bolt action	308,25-06,243,7 mm mag,30.06,22-250,300 mag all
A 66				
A 67	Ruger		#1	7 mm, 30.06, 7 mm mag
A 68				
A 69				
A 70	Other		Bolt Action	30.06
A 71				300 mag
A 72	Other	Any make	Any model	7 mm, 270, 30.06, 25.06
A 73				
A 74	Browning		BAR	300 win mag
A 75				
A 76				
A 77				
A 78	Browning		Bolt action	
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Remington		700	30.06, 7 mm, 270
A 88				
A 89	Other	Russian	SKS	7.62
A 90	Other	Weatherby		7 mm mag

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Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 91	Remington		700	7 mag
A 92				
A 93	Winchester		70	300 mag
A 94	Other	Any bolt action		270 or larger
A 95				
A 96				
A 97	Other	Any bolt action		30 or larger, on semiauto same
A 98				
A 99				
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106	Other	Weatherby		300 magnum
A 107				
A 108				
A 109	Remington		70	7 mm
A 110				
A 111				
A 112				
A 113				
A 114				
A 115				
A 116				
A 117				magnum
A 118				
A 119	Remington		700	7 mm
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126				300 mag, 338 mag, 30.06
A 127				
A 128				
A 129				
A 130	Remington		700	7 mm magnum
A 131				
A 132	Other	Weatherby		300 mag
A 133				
A 134				
A 135				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 136				
A 137	Remington		700	7 mm
A 138				
A 139	Browning		BAR	7 m or 270
A 140				
A 141				
A 142				30.06
A 143				
A 144	Browning			from 7 mm mag to 338 mag for deer and elk
A 145	Winchester			30.06
A 146	Browning		BDL	7 mag
A 147	Remington		700 BDL	7 mm
A 148				
A 149				
A 150	Browning		Bolt action	
A 151				
A 152				
A 153	Remington		700	30
A 154				
A 155	Other	Weatherby		300
A 156				
A 157				
A 158				
A 159	Browning	Ruger		243, 30.06, 7 mm mag, 340 weather, .338
A 160				
A 161				
A 162				
B 1				7.62 x 39
C 1	Other	Manually operated		
C 2	Ruger		77	300
C 3				
C 4				
C 5				
C 6				
C 7				
C 8	Remington		700	270
C 9				
C 10	Other	HK	91	.308
C 11				
C 12				
C 13				
C 14	Other	Bolt-action w/ belted mag		Calibers, make and model mean nothing
C 15	Other	Bolt-action		30.06-7mm
C 16				
C 17	Other	Bolt-action		

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
C 18	Ruger		Ranch Rifle	.223
C 19				.243 and larger
C 20				
C 21				
C 22				
C 23	Other	Bolt-action		7mm mag
C 24				
C 25	Other	Savage		7mm mag
C 26				
C 27	Winchester		70	30.06
C 28				
C 29	Winchester		70	30.06 - .338
C 30				
C 31	Winchester		Manual, bolt	300
C 32	Remington		All	270 - 7mm
C 33	Winchester		70	30.06 - .300 win
C 34	Other	Bolt-action		270 or larger for elk and deer
C 35	Other	Bolt-action or semiautos		.270 or larger
A 1				
A 2	Remington			7 mm
A 3				
A 4	Winchester		70	300
A 5				
A 6				
A 7				
A 8				
A 9				
A 10				
A 11				
A 12				
A 13				
A 14				
A 15				
A 16				
A 17				
A 18				
A 19				
A 20				
A 21	Remington		70	30.06
A 22	Winchester		70	7 mm or larger
A 23	Remington		700	25 to 30
A 24	Remington			300 Mag
A 25				
A 26	Browning		A bolt	30.06 or larger
A 27				300 win mag, 30.06 or 270

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 28				
A 29				
A 30		hunter's choice		.308
A 31				
A 32				
A 33				
A 34				
A 35	Remington		700 BDL	7 mm
A 36				
A 37				
A 38				
A 39				
A 40	Winchester			30.06 - 300 win mag
A 41				
A 42				
A 43				
A 44				
A 45	Remington		Bolt Action	25.06 - 328
A 46				
A 47				
A 48				
A 49				
A 50				
A 51				
A 52				
A 53				
A 54				
A 55				
A 56				
A 57				
A 58				
A 59				
A 60				
A 61	Other	Savage	Bolt Action	7 mm mag
A 62				
A 63				
A 64	Remington		700	300 win mag
A 65	Other	Weatherby		
A 66				
A 67	Remington		Bolt Action	7 mm, 30.06, 7 mm mag
A 68				
A 69				
A 70			Pump	30.06
A 71				7 mm mag
A 72				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 73				
A 74	Winchester		7C	300 win mag
A 75				
A 76				
A 77				
A 78	Remington		Bolt Action	
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Browning			308, 7 mm, 30.06
A 88				
A 89	Other	Heckler-Koch	HK-91	308
A 90				
A 91	Winchester		70	300 mag
A 92				
A 93	Browning		Mark II	300 mag, 280-270-25.06
A 94				
A 95				
A 96				
A 97	Other	Semi-auto		30 cal or larger
A 98				
A 99				
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106	Remington		700	300 win mag
A 107				
A 108				
A 109	Winchester			300 mag, 30.06
A 110				
A 111				
A 112				
A 113				
A 114				
A 115				
A 116				
A 117				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 118				
A 119	Other	Weatherby		300
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126				
A 127				
A 128				
A 129				
A 130				
A 131				
A 132	Other	Weatherby		700 mag
A 133				
A 134				
A 135				
A 136				
A 137	Other	Weatherby		300
A 138				
A 139	Remington		742	30.06 or 6 mm
A 140				
A 141				
A 142				7 mm recommended for deer and elk
A 143				
A 144	Other	Weatherby		from 7 mm mag to 338 for deer
A 145	Other	Weatherby		300
A 146	Browning		BDC	300
A 147				
A 148				
A 149				
A 150	Winchester		Bolt Action	
A 151				
A 152				
A 153	Remington		700	7 mm
A 154				
A 155	Other	Weatherby		7 mm
A 156				
A 157				
A 158				
A 159	Winchester	Remington		340 Weather - .338 mag
A 160				
A 161				
A 162				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
B 1				
C 1				
C 2	Browning			300
C 3				
C 4				
C 5				
C 6				
C 7				
C 8	Remington		700	280
C 9				
C 10	Winchester		70	.270
C 11				
C 12				
C 13				
C 14				
C 15				
C 16				
C 17	Other	Pump		
C 18	Other	AK-47		
C 19				6mm
C 20				
C 21				
C 22				
C 23	Other	Bolt-action		.30
C 24				
C 25	Other	Bolt-action		30.06
C 26				
C 27	Ruger		77	.300 win mag
C 28				
C 29	Remington		700	30.06-.338
C 30				
C 31	Remington		Manual bolt	300
C 32	Browning		All	.270 - 7mm
C 33	Ruger		77	30.06 - .300 win
C 34				
C 35				
A 1				
A 2	Winchester			375
A 3				
A 4	Winchester		70	270
A 5				
A 6				
A 7				
A 8				
A 9				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 10				
A 11				
A 12				
A 13				
A 14				
A 15				
A 16				
A 17				
A 18				
A 19				
A 20				
A 21	Remington		70	.270
A 22				
A 23	Other	Any bolt action	1-5 shotmag	25 to 30
A 24	Other	Weatherby		300 mag
A 25				
A 26				
A 27				
A 28				
A 29				
A 30				
A 31				
A 32				
A 33				
A 34				
A 35				
A 36				
A 37				
A 38				
A 39				
A 40	Ruger			30.06 - 300 win mag
A 41				
A 42				
A 43				
A 44				
A 45	Winchester		Bolt Action	25.06 - 328
A 46				
A 47				
A 48				
A 49				
A 50				
A 51				
A 52				
A 53				
A 54				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 55				
A 56				
A 57				
A 58				
A 59				
A 60				
A 61	Other	Weatherby	Bolt Action	338 mag
A 62				
A 63				
A 64	Other	Weatherby Mark V		300 Wea Mag
A 65	Winchester	Browning		
A 66				
A 67	Winchester	Bolt Action		
A 68				
A 69				
A 70			Bolt Action	7 mm
A 71				
A 72				
A 73				
A 74	Browning		A Bolt	300 win mag
A 75				
A 76				
A 77				
A 78				
A 79				
A 80				
A 81				
A 82				
A 83				
A 84				
A 85				
A 86				
A 87	Other	Weatherby		300, 7 mm, 338
A 88				
A 89	Other	Springfield Armory	FNG	308
A 90				
A 91	Ruger		77	300 mag
A 92				
A 93	Ruger		M77	270, 26-06, 300 mag
A 94				
A 95				
A 96				
A 97				
A 98				
A 99				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 100				
A 101				
A 102				
A 103				
A 104				
A 105				
A 106	Browning		1895	45-70 govt
A 107				
A 108				
A 109				
A 110				
A 111				
A 112				
A 113				
A 114				
A 115				
A 116				
A 117				
A 118				
A 119	Other	Savage		270 or 30.06
A 120				
A 121				
A 122				
A 123				
A 124				
A 125				
A 126				
A 127				
A 128				
A 129				
A 130				
A 131				
A 132				
A 133				
A 134				
A 135				
A 136				
A 137				
A 138				
A 139				
A 140				
A 141				
A 142				300 winmag recommended
A 143				
A 144	Remington	Weatherby		from 270 to 338 for deer and elk

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
A 145	Remington			270
A 146	Ruger		#1	7 mag
A 147				
A 148				
A 149				
A 150				All bolt action with a round nose point
A 151				
A 152				
A 153				
A 154				
A 155				
A 156				
A 157				
A 158				
A 159				300mag,416Rigby,375mag,270 mag,500 nitroexpress
A 160				
A 161				
A 162				
B 1				
C 1				
C 2	Other	Sako		300
C 3				
C 4				
C 5				
C 6				
C 7				
C 8				
C 9				
C 10	Winchester		100	.308
C 11				
C 12				
C 13				
C 14				
C 15				
C 16				
C 17	Other	Weatherby		243 to 300
C 18				
C 19				
C 20				
C 21				
C 22				
C 23				
C 24				
C 25				
C 26				

Hunting Guides

Q 6. Rifles recommended for clients				
case	Make	Other Make	Model	Caliber
C 27	Springfield		M Garard	30.06 - 308
C 28				
C 29	Browning		A bolt	30.06 - .338
C 30				
C 31				
C 32	Ruger		All	.270 - 7 mm
C 33	Browning		A bolt	30.06 - 300 win
C 34				
C 35				

Hunting Guides

Q 8. Recommended rifles based on AK47 et.al.				
case	Make	Other Make	Model	Caliber
A	26	AK47		7.62x37
A	89	Other	Russian	SKS
A	113	FN-FAL		7.62
A	159	AK47		
C	2	AK47	Antelope and Varmints and Target Shooters	30
C	10	AK47		7.62x39
C	18	AK47		
C	25	AK47		7.62
C	27	FN-FAL		308
A	26		SKS	7.62x37
A	89	HK91		308
A	113		HK 99	
C	2	AK47	Antelope and Varmints and Target Shooters	243
C	10	HK91		308
C	25		MAK 90	7.62
C	27		Century	L1A1
A	89	Other	Springfield Armory	FNG
A	113	HK93		308
C	10	HK93		
C	25		M-15	223
C	27	HK91	And clones	223
				308

Additional Comments by Hunting Guides

Additional comments:

- (8) The respondent answered questions 1, 2, 3, and 5 with "None of your business." He then stated in question 4: "It's none of your business what kind, make, model or how many guns law abiding citizens of the U.S. own, prefer to shoot."
- (9) The respondent wrote that he was no longer in business but that he had owned a waterfowl operation and upland bird operation (shotguns only). He added that assault rifles were not true sporting rifles and that they should be limited to use by the military and law enforcement agencies. However, he felt that true sporting weapons that can be modified into some "quasi-assault weapons" should not be restricted. He stated that he supported the effort to get military weapons off the streets but did not want the rights of true sportsmen to be affected.
- (10) Although licensed, the respondent did not guide anyone during the past year.
- (11) The respondent stated in question 6 that he recommends any legal caliber rifle that client is comfortable with and that is capable of killing the desired game.
- (12) For question 6, the respondent replied that he didn't recommend any specific make or model, other than whatever his clients are most comfortable using so long as the weapons are legal for the particular game.
- (15) The respondent stated that his organization was solely recreational wildlife watching and photography.
- (17) The respondent did not answer the questions but informed us that it is illegal in Hawaii to hunt turkey with a rifle.
- (23) The respondent stated that the study rifles were more suitable for militants than sportsmen. He added, "If they want to use these weapons let them go back to the service and use them to defend our country, not against it."
- (25) The respondent stated that, in his 35 years of conducting big game hunts, he had never seen any of the study rifles used for hunting. He suggested that the rifles are made to kill people, not big game.
- (26) The respondent recommended bolt-action rifles for his clients but stated that he doesn't demand that they use such rifles. The respondent recommended the study rifles in close-range situations in which there are multiple targets that may pose a danger to the hunter (e.g., coyotes, foxes, mountain lions, and bears).
- (27) The respondent stated that he recommended the study rifles for hunting but not any specific make.

- (32) The respondent said that most of his clients are bow or pistol hunters. He said that there is little if any use for the study rifles in his outfitting service because it focuses on hunts of mountain lions and bighorn sheep. However, he did recommend the study rifles on target ranges and in competitive shooting situations and cited his right to bear arms.
- (35) The respondent recommended bolt-action rifles for his clients.
- (40) The respondent stated that semiautomatic rifles (such as the AK47) and others are useful for predator hunting.
- (41) The respondent said that he recommended only ranges of calibers deemed suitable but not makes and models of specific rifles.
- (44) The respondent recommended the following calibers for hunting without any specific makes or models: 30.06, 300 Win mag, 338, and 270.
- (47) The respondent stated: "You are asking questions about certain makes of assault rifles, but you are going to end up going after ALL semiautomatic guns. I've spent about 21 years HUNTING with shotguns and I've used semiautomatic models. If you go down the list of times that one new law didn't end up being a whole sloo [sic] of other laws I would be surprised. Maybe some face-to-face with these weapons would be a good thing for politicians. If they see how they are used in 'the Real World' then they may make better amendments."
- (49) The respondent specifically recommended the study rifles only for grizzly bears or moose.
- (50) The respondent stated that his business involved waterfowl hunting, which uses only shotguns.
- (51) The respondent replied: "It is my opinion this is a one sided survey, and does not tell the real meaning and purpose of the survey. And that is to ban all sporting arms in the future. The way this survey is presented is out of line."
- (53) The respondent stated: "I recommend to all my hunters that they join the NRA, vote Republican, and buy a good semi-auto for personal defense."
- (57) The respondent stated that most of his clients use bolt-action rifles. He suggested that semiautomatics are not as accurate as bolt-action rifles.
- (58) The respondent stated that the survey did not pertain to his waterfowl hunting business since only shotguns are used. He added that he did not believe semiautomatics in general present any more threat to the public than other weapons or firearms. However, he suggested that cheaply made assault-type rifles imported from China and other countries are inaccurate and not suitable for hunting.
- (59) The respondent stated that he had no knowledge of the semiautomatic rifles beyond 30.06 or similar calibers for hunting. He added that he did not have a use for "automatic" weapons.

- (64) The respondent stated: "We need to look at weapons and determine what the designer's intent was for the weapon. We really don't need combat weapons in the hunting environment. I personally would refuse to guide for anyone carrying such a weapon."
- (65) The respondent recommended the following calibers for hunting: 7mm, 30.06, .308, .708, 25.06, .243, 22.250, and 300 mag. However, he stated that the study rifles are of no use to the sporting or hunting community whatsoever.
- (71) The respondent stated that he mainly hunts elk but did not recommend any additional information about specific firearms except for using 300 mag and 7 mm mag calibers.
- (73) The respondent recommended any bolt-action or semiautomatic in the 30 or 7mm calibers. However, he stated that he doesn't allow his clients to use any models based on assault rifles: "They are not needed for hunting. A good hunter does not have these."
- (78) The respondent recommended bolt-action rifles for hunting, particularly Browning and Remington.
- (80) Although the respondent stated that he does not conduct guides, he did not see a reason to allow any rifles other those manufactured specifically for hunting and sport shooting: "All assault rifles are for fighting war and killing humans."
- (82) The respondent stated that he used shotguns only.
- (84) The respondent said that he did not allow semiautomatic or automatic rifles in his business. He specifically recommended manually operated rifles.
- (90) The respondent stated that all the semiautomatics like AK47s are absolutely worthless and that he found no redeeming hunting value in any AK47 type of rifle. He further explained that the purpose of hunting is to use the minimum number of shells, not the maximum: "I have only known 1 [person] in 50 years to use an AK47. He shot the deer about 30 times. That wasn't hunting, it was murder." He suggested that he would be willing to testify in Congress against such weapons.
- (92) The respondent stated that he had been contacted in error, as he was not in the hunting guide business.
- (98) The respondent recommended any rifle that a client can shoot the best.
- (101) The respondent wrote a letter saying that his business was too new to provide us with useful information about client use; however, he stated that the Chinese AK47 does a proficient job on deer and similar sizes of game and may be the only rifle that some poor people could afford. He said that he is willing to testify to Congress about the outrageous price of certain weapons.
- (102) The respondent did not recommend rifles but recommended calibers .270, 30.06, .300, and 7mm.

- (103) The respondent stated that he had clients who used semiautomatic rifles, but he didn't know which makes or models.
- (104) The respondent recommended any legal weapons capable of killing game, "including the types mentioned under the 2nd amendment."
- (105) The respondent stated that the semiautomatic rifles used by his clients were Remingtons.
- (112) The respondent stated that he could not provide any useful information because his business was too new.
- (113) The respondent recommended whatever is available to knock down an elk. He recommended specific calibers: 30.06, 300, or 338.
- (115) The respondent questioned why anyone would use a semiautomatic firearm to hunt game: "Anyone using such horrible arms should be shot with one themselves. Any big game animal does not have a chance with a rifle and now you say people can use semiautomatic rifles."
- (116) The respondent had had three clients who used semiautomatics with 30.06 and 270-caliber ammunition; however, he didn't know the makes or models.
- (118) The survey questions were not answered, but the respondent wrote: "This is a stupid survey. No one contends they hunt much for big game with an AK47. The debate is over the right to own one, which the 2nd amendment says we can."
- (119) The respondent recommended bolt-action rifles for hunting.
- (121) The respondent stated that he uses only shotguns in his operation.
- (122) The respondent recommended rifles with the calibers of .270 - 30.06 or larger to the .300 mag or .338 mag. However, he said that anything other than a standard semiautomatic sporting rifle is illegal in Colorado, where his business is conducted.
- (123) The respondent, who is a bighorn sheep outfitter, stated that the semiautomatic rifles have no place in big game hunting. He recommended basic hunting rifles with calibers of 270 or 30.06.
- (124) The respondent, who hunts mainly deer and elk, recommended calibers 270, 30.06, 300 mag, 7mm, 8mm, or 338.
- (125) The respondent said that his clients did use semiautomatics, but he didn't have any specific information about which ones.
- (126) The respondent stated that the study rifles should remain in one's home or on private property. He would like to have some for personal use but would not recommend them for hunting. He further expressed his displeasure with the Brady bill and stated that criminals need to be held accountable for their actions.
- (127) The respondent, who hunts mostly elk and deer, said that the AK47 is not powerful enough to hunt elk; however, it may be ideal for smaller game, like deer or antelope. He recommended any rifles of 30.06 caliber or larger for hunting.

- (131) The respondent recommended bolt-action rifles for his clients with calibers .24, .25, 7 mm, or .30. He cited his preference because of fewer moving parts, their ease to fix, and their lack of sensitivity to weather conditions in the field. He added, however, that he had seen the study rifles used with good success.
- (132) The respondent stated that the study rifles are not worth anything in cold weather.
- (133) The respondent recommended handguns for hunting in calibers 41 or 44 mag.
- (136) The respondent did not recommend any rifles by make, but he did recommend a caliber of .308 or larger for elk.
- (140) The respondent recommended any good bolt or semiautomatic in 270 caliber and up. He added: "I feel the government is too involved in our lives and seek too much control over the people of our country. I am 65 yrs old and see more of our freedom lost every day. I believe in our country but I have little faith in [organizations] like the A.T.F."
- (145) The responded stated: "Don't send these guns out west. Thanks!"
- (148) The respondent did not hunt turkey or deer and had no additional information to provide.
- (149) The respondent said that he recommends specific rifles to his clients if they ask, usually 270 to 7mm caliber big game rifles.
- (150) The respondent recommended Winchester, Remington, or any other autoloading hunting rifle.
- (152) The respondent said that he recommended caliber sizes but not specific rifles.
- (159) The respondent recommended any gun with which a client can hit a target. He stated that the AK47 could be used for hunting and target shooting.
- (174) The respondent recommended bolt-action rifles to his clients.
- (175) The respondent said that most of his deer-hunting clients use bolt-action rifles, such as Rugers and Remingtons, in calibers of 30.06, 270, or 243. In his duck guide service, only shotguns are used.
- (180) The respondent wrote: "We agree people should not be allowed to have semiautomatics and automatics. This does not mean that you silly bastards in Washington need to push complete or all gun control."
- (182) The respondent felt that the survey is biased because it didn't ask about hunting varmints. He stated that many of the study rifles are suitable for such activity.
- (184) The respondent did not recommend single shots or automatics and only allows bolt action or pumps for use by his clients.

(188) The respondent wrote that the study guns are good for small game hunting: "I have very good luck with them as they are small, easy to handle, fast-shooting and flat firing guns."

(192) The respondent submitted a letter with the survey: "I do not recommend the use of semiautomatic weapons for hunting in my area. Most of these weapons are prone to be unreliable because the owner does not know how to properly care for them in adverse weather. The FN-FAL, HK91, HK93, and SIG SG550-1 are excellent and expensive weapons very much suited to competition shooting.

"Have you surveyed the criminal element on their choice of weapons? I suspect the criminal use of the six weapons you mentioned do law-abiding citizens compare a very small percentage to the same weapon used. I realize that even one wrongful death is too many but now can you justify the over 300,000 deaths per year from government supported tobacco?

"Gun control does not work - it never has and it never will. What we need are police that capture criminals and a court system with the fortitude to punish them for their crimes."

(198) The respondent stated that this was his first year in and that it was mainly a bow-hunting business.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DEC 10 1997

O:F:S:DMS
3310

Dear Sir or Madam:

On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The firearms in question are semiautomatic rifles based on the AK47, FN-FAL, HK91, HK93, SIG SG550-1, and Uzi designs.

As part of the review, the Bureau of Alcohol, Tobacco and Firearms (ATF) is interested in receiving information that shows whether any or all of the above types of semiautomatic rifles are particularly suitable for or readily adaptable to hunting or organized competitive target shooting. We are asking that your organization voluntarily complete the enclosed survey to assist us in gathering this information. We anticipate that the survey will take approximately 15 minutes to complete.

Responses must be received no later than 30 days following the date of this letter; those received after that date cannot be included in the review. Responses should be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Department HSE, P.O. Box 50860, Washington, DC 20091. We appreciate any information you care to provide.

Sincerely yours,


John W. Magaw
Director

Enclosure

ATF SURVEY OF HUNTING/SHOOTING EDITORS
FOR RIFLE USAGE

Page 1 of 2

1. Does your publication recommend specific types of centerfire semiautomatic rifles for use in **hunting medium game (for example, turkey) or larger game (for example, deer)?**

____ Yes (*Continue*) ____ No (*Skip to #3*)

2. If your answer to item 1 is "Yes", please identify the specific centerfire semiautomatic rifles you recommend.

Make

Model

Caliber

3. Does your publication recommend **against** the use of any semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** for use in **hunting medium game (for example, turkey) or larger game (for example, deer)?**

____ Yes (*Continue*) ____ No (*Skip to #5*)

____ Yes, in certain circumstances. Please explain _____

(*Continue*)

4. If your answer to item 3 is "Yes" or "Yes, in certain circumstances", please identify the specific rifles that you recommend **against** using for **hunting medium game (for example, turkey) or larger game (for example, deer)?**

Make

Model

Caliber

5. Does your publication recommend specific types of centerfire semiautomatic rifles for use in **high-power rifle competition?**

____ Yes (*Continue*) ____ No (*Skip to #7*)

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.

ATF SURVEY OF HUNTING/SHOOTING EDITORS FOR RIFLE USAGE

Page 2 of 2

6. If your answer to item 5 is "Yes", please identify the specific centerfire semiautomatic rifles you recommend.

MakeModelCaliber

7. Does your publication recommend **against** the use of any semiautomatic rifles whose design is based on the **AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi** for use in **high-power rifle competition**?

☐ Yes (*Continue*) ☐ No (*Skip to #9*)

☐ Yes, in certain circumstances. Please explain _____

(Continue)

8. If your answer to item 7 is "Yes" or "Yes, in certain circumstances", please identify the specific rifles your publication recommends **against** using for **high-power rifle competition**.

MakeModelCaliber

9. Have you or any other author who contributes to your publication written any articles since 1989 concerning the use of semiautomatic rifles and their suitability for use in hunting or organized competitive shooting? (*Exclude Letters to the Editor.*)

☐ Yes (*Continue*) ☐ No (*You are finished with the survey. Thank you.*)

10. If your answer to item 9 is "Yes", please submit a copy of the applicable article(s). Any material you are able to provide will be very beneficial to our study. Please indicate the publication, issue date and page for each article.

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Editors

Comments:

2. If your answer to item 1 is "Yes," please identify the specific centerfire rifles you recommend:
 - (8) Anything except Uzis.
 - (9) All study rifles except Uzi.
 - (12) See attached articles.
3. Please explain circumstances to question 3: Does your publication recommend against the use of any semiautomatic rifles whose design is based on the AK 47, FN-FAL, HK91, HK93, SIG 550-1, or Uzi for use in hunting medium game (for example, turkey) or larger game (for example, deer)?
 - (12) When the caliber is inappropriate or illegal for the specific game species.
4. Other rifle make recommendations in response to question 4: If your answer to item 3 is "Yes" or "Yes, in certain circumstances," please identify the specific rifles that you recommend against using for hunting medium game (for example, turkey) or larger game (for example, deer)?
 - (12) See attached articles.

The following two items are for the responses to question 6: If your answer to item 5 is "Yes," please identify the specific centerfire semiautomatic rifles you recommend:

Model

- (5) Springfield M1A and Colt AR-15.

Caliber

- (5) 7.62m (M1A) and .223 (Colt).

The following items are for questions 9 and 10 on articles written and the submission of these articles with the survey.

Article 1

- (8) No articles enclosed.
- (9) Semiautomatic Takes Tubb to HP Title.
- (10) No articles attached.

Article 2

- (9) AR-15 Spaceguns Invading Match.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DEC 10 1997

O:F:S:DMS
3310

Dear Sir or Madam:

On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The firearms in question are semiautomatic rifles based on the AK47, FN-FAL, HK91, HK93, SIG SG550-1, and Uzi designs.

As part of the review, the Bureau of Alcohol, Tobacco and Firearms (ATF) is interested in receiving information that shows whether any or all of the above types of semiautomatic rifles are particularly suitable for or readily adaptable to hunting or organized competitive target shooting. We are asking that your organization voluntarily complete the enclosed survey to assist us in gathering this information. We anticipate that the survey will take approximately 15 minutes to complete.

Responses must be received no later than 30 days following the date of this letter; those received after that date cannot be included in the review. Responses should be forwarded to the Bureau of Alcohol, Tobacco and Firearms, Department FG, P.O. Box 50860, Washington, DC 20091. We appreciate any information you care to provide.

Sincerely yours,

John W. Magaw
Director

Enclosure

ATF SURVEY OF STATE FISH AND GAME COMMISSIONS
FOR RIFLE USAGE

Page 1 of 2

State: _____

1. Do the laws in your state place any prohibitions or restrictions (other than seasonal) on the use of **high-power** rifles for **hunting medium game (for example, turkey) or larger game (for example, deer)**?

____ Yes (*Continue*) ____ No (*Skip to #2*)

1a. If "Yes", please cite law(s) and briefly describe the restrictions.

2. Do the laws in your state place any prohibitions or restrictions (other than seasonal) on the use of **semiautomatic** rifles for **hunting medium game (for example, turkey) or larger game (for example, deer)**?

____ Yes (*Continue*) ____ No (*Skip to #3*)

2a. If "Yes", please cite law(s) and briefly describe the restrictions.

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ATF SURVEY OF STATE FISH AND GAME COMMISSIONS
FOR RIFLE USAGE

Page 2 of 2

(Continue)

3. What, if any, is the minimum caliber or cartridge dimensions that may be used for **hunting medium game (for example, turkey) or larger game (for example, deer)?**

Caliber: _____ OR Dimensions: _____

_____ There is no minimum.

4. Does your commission or state collect any data on the types of rifles used in your state for **hunting medium game (for example, turkey) or larger game (for example, deer)?**

_____ Yes (Continue) _____ No (You are finished with the survey. Thank you.)

4a. If "Yes", please provide hard copies of any such available data for the past two hunting seasons of 1995 and 1996. Any data that you provide will be most beneficial to our study.

If you would like us to contact you regarding the data, please provide your name and phone number.

Name: _____ Phone: _____

An agency may not conduct or sponsor, and a person is not required to respond to, the collection of information unless it displays a currently valid OMB control number.

Survey Fish and Game Commissions for Rifle Usage

STATE	Restrictions		Minimum Caliber or Cartridge		Q5
	Q1	Q2	Q3	Q4	
	HiPwr	Semiauto	Minimum Caliber	Minimum Cartridge	Collect Data
Alabama	Yes	Yes	Any center fire rifle	None	No
Alaska	Yes	No	No Centerfire for big game		No
Arizona	No	Yes	.22 mag or larger		No
Arkansas	Yes	No	None	None	No
California	No	No	See Question 1a	See Question 1a	No
Colorado	Yes	Yes	0.24		No
Connecticut	Yes	Yes			
Delaware	Yes	Yes			
Florida	Yes	Yes	No rimfire for deer		No
Georgia	Yes	No	.22 Centerfire or larger		No
Hawaii	No	No			
Idaho	Yes	Yes	.22 rimfire		No
Illinois	Yes	Yes	None	None	No
Indiana	Yes	Yes	None		No
Iowa	Yes	Yes	not provided		No
Kansas	Yes	Yes	.23 caliber or larger		No
Kentucky	No	No			
Louisiana	Yes	No	.22 Centerfire		No
Maine	Yes	No	.22 mag or larger		No
Maryland	Yes	Yes			
Massachusetts	Yes	No	None	None	Yes
Michigan	Yes	Yes	.23 or larger		No
Minnesota	Yes	No	0.23	1.285"	No
Mississippi	Yes	No	None	None	No
Missouri	Yes	Yes	None	None	No
Montana	No	No	None		No
Nebraska	No	No			
Nevada	No	No			No
New Hampshire	Yes	Yes		above .22 rimfire	No
New Jersey	Yes	Yes	None	None	No
New Mexico	Yes	No	.24 centerfire or larger		No
New York	Yes	Yes	Must be centerfire		No
North Carolina	Yes	No	None	None	No
North Dakota	Yes	Yes	.22 Centerfire or larger		No
Ohio	Yes	No	None	None	No
Oklahoma	Yes	Yes	.22 magnum		No
Oregon	Yes	Yes	.22 or .24 or larger		No
Pennsylvania	Yes	Yes	None	None	No
Rhode Island	Yes	Yes		.229 maximum	No
South Carolina	Yes	No	Must be larger than .22		No
South Dakota	Yes	No	None	None	No
Tennessee	Yes	Yes	.24 or larger caliber		No
Texas	Yes	No	None	None	No
Utah	Yes	No		None	No
Vermont	Yes	No			No
Virginia	Yes	Yes	.23 caliber for deer		No
Washington	Yes	Yes	.240 or larger for coyote		No
West Virginia	No	No		Any centerfire	No
Wisconsin	Yes	No	.22 caliber or larger		No
Wyoming	Yes	No		23/100 bullet dia.	No

State Fish and Game Commissions

Restrictions for High Powered Rifles

1a. Please cite law(s) and briefly describe the restrictions.

Alabama

(19) No automatic weapons, no silenced weapons.

Alaska

(23) Bison hunters must use a caliber capable of firing a 200-grain bullet having 2,000 pounds of energy at 100 yards.

Arkansas

(11) No rifles for turkey.

California

(22) Centerfire for big game, 10 gauge or smaller for resident small game.

Colorado

(10) Semiautomatic rifle may not hold more than 6 rounds.

Connecticut

(39) Shotgun only on public lands. Can use any type of rifle on private land.

Delaware

(40) No rifles - shotguns/muzzle loaders only.

Florida

(25) Machine guns and silencers not permitted for any hunting.

Georgia

(29) No hi-power rifles allowed for turkey hunting.

Hawaii

(49) Must have discharge of 1200 foot pounds.

Idaho

(30) No hi-power rifles allowed for hunting turkey.

Illinois

(12) Turkey or deer may not be hunted with rifle. Deer may not be hunted with muzzle loading rifle. No restriction on rifles for coyote, fox, and woodchuck, etc.

Indiana

(34) No hi-power rifles allowed for deer or turkey hunting. Limited restrictions for specified areas.

Iowa

(26) Cannot use rifles for turkey or deer, only shotgun or bow and arrow. No difference if public or private lands. For coyote or fox, there is no restriction on rifles, magazine size, or caliber.

Kansas

(33) Must use ammunition specifically designed for hunting.

Louisiana

- (6) No rifles for turkey hunting. Rifles for deer hunting must be no smaller than .22 centerfire.

Maine

- (32) No hi-power rifles for turkey and water fowl. Some limited restrictions for specific areas.

Maryland

- (42) Some restrictions based on county. They are allowed in western and southern Maryland. Shotguns only in and around Baltimore and Washington, D.C.

Massachusetts

- (14) Rifles not permitted for hunting deer and turkey.

Michigan

- (27) No turkey hunting with hi-power rifle. No night hunting with hi-power rifle. Deer hunting with hi-power rifle allowed only in lower southern peninsula. Limited restrictions for specific areas.

Minnesota

- (13) Caliber must be at least .23. Ammunition must have a case length of at least 1.285". .30 caliber M1 carbine cartridge may not be used.

Mississippi

- (15) Restricts turkey hunting to shotguns. However quadriplegics may hunt turkey with a rifle.

Missouri

- (5) Rifles not permitted for turkey. Self loading firearms for deer may not have a combined magazine + chamber capacity of more than 11 cartridges.

Nebraska

- (43) Allowed and frequently used, but magazine capacity maximum is six rounds.

Nevada

- (1) Answer to #3 refers to NAS 501.150 and NAS 503.142. Not for turkey.

New Hampshire

- (7) Magazine capacity no more than 5 rounds. Prohibits full metal jacket bullets for hunting. Prohibits deer hunting with rifles in certain towns.

New Jersey

- (17) No rifles.

New Mexico

- (31) No hi-power rifles allowed for hunting turkey.

New York

- (24) No semiautomatics with a magazine capacity of greater than 6 rounds; machineguns and silencers not permitted for any hunting. Limited restrictions for specific areas.

North Carolina

- (20) Centerfire rifles not permitted for turkey hunting.

North Dakota

(28) No hi-power rifles for turkey hunting.

Ohio

(3) Prohibits high power rifles for turkey, deer and migratory birds. High power rifles can be used on all other legal game animals.

Oklahoma

(8) Centerfire rifles only for large game. Magazines for .22 centerfire rifles may not hold more than 7 rounds.

Oregon

(2) OAR 635-65-700(1) must be .24 caliber or larger center fire rifle, no full automatic; OAR 635-65-700(2) hunters shall only use centerfire rifle .22 caliber; OAR-65-700(5) no military or full jacket bullets in original or altered form. Limited restrictions for specific areas.

Pennsylvania

(16) Rifles not permitted in Philadelphia & Pittsburgh areas.

Rhode Island

(44) .22 center fire during the summer for woodchucks.

South Carolina

(18) No rifle for turkey, rifle for deer must be larger than .22 caliber

South Dakota

(50) Magazine not more than five rounds.

Tennessee

(37) No hi-power rifles allowed for turkey hunting.

Texas

(21) Rimfire ammunition not permitted for hunting deer, antelope, and bighorn sheep; machine guns and silencers not permitted for hunting any game animals.

Utah

(9) No rifles for turkey hunting.

Vermont

(47) Turkey size less than 10 gauge. Deer/moose/deer, no restriction on caliber.

Virginia

(48) 23 caliber or larger for deer and bear. No restrictions for turkey. No magazine restrictions, shotgun limited to 3 shells. Restrictions vary from county to county - approximately 90 different rifle restrictions in the State of Virginia based on the county restrictions. Sawed-off firearms are illegal to own unless with a permit, if barrel less than 16 inches for rifle, and 18 inches for shotgun.

Washington

(46) Hunting turkey limited to shotguns. Small game limited to shotguns.

Wisconsin

(36) No .22 rimfire rifles for deer hunting.

Wyoming

(4) Big game and trophy animals, firearm must have a bore diameter of at least 23/100 of an inch.

Restrictions for Semiautomatic Rifles

2a. Please cite law(s) and briefly describe the restrictions.

Alabama

(19) Turkey may not be hunted with a centerfire rifle or rimfire rifle. Semiautomatic rifles of proper caliber are legal for all types of hunting. No restrictions on magazine capacity, except wildlife management areas where centerfire rifles are restricted to 10 round max.

Arizona

(38) Magazine cannot hold more than 5 rounds.

Colorado

(10) Semiautomatic rifle may not hold more than 6 rounds.

Connecticut

(39) Shotgun only on public lands. Any type of rifle can be used on private land.

Delaware

(40) No rifles - shotguns/muzzle loaders only.

Florida

(25) No semiautomatic centerfire rifles having a magazine capacity greater than 5 rounds.

Idaho

(30) No hi-power rifles (including semiautomatic) allowed for turkey hunting.

Illinois

(12) See #1.

Indiana

(34) No hi-power rifles allowed for turkey hunting.

Iowa

(26) Cannot use rifles for turkey or deer, only shotgun or bow and arrow. No difference in public or private land. For coyote or fox, there is no restriction on rifle, magazine size, or caliber.

Kansas

(33) Must use ammunition specifically designed for hunting.

Maryland

(42) Some restrictions. Based on county. Shotguns only in and around Baltimore and Washington, D.C.

Michigan

(27) Unlawful to hunt with semiautomatic rifles capable of holding more than 6 rounds in magazine and barrel. Rimfire (.22 cal) rifles excluded from restrictions.

Missouri

(5) Combined magazine + chamber capacity may not be more than 11 cartridges.

New Hampshire

(7) Turkey may not be hunted with rifles. Rifles may not have magazine capacity of more than 5 cartridges.

New Jersey

(17) No rifles.

New York

(24) No semiautomatics with a magazine capacity of greater than 6 rounds.

North Dakota

(28) No hi-power rifles (including semiautomatics) may be used for hunting turkey.

Oklahoma

(8) See #1.

Oregon

(2) OAR 635-65-700(1) and (2) limits magazine capacity to no more than 5 cartridges.

Pennsylvania

(16) Semiautomatic rifles are not lawful for hunting in Pennsylvania.

Rhode Island

(44) Cannot use semiautomatic during the winter, only during the summer months for woodchucks (during daylight from April 1 to September 30).

Tennessee

(37) No hi-power rifles, including semiautomatics, allowed for turkey hunting.

Vermont

(47) Semiautomatic 5 rounds or less.

Virginia

(48) Semiautomatics are legal wherever rifles can be used. 23 caliber or larger for deer and bear. No restrictions for turkey. No magazine restrictions, shotgun limited to 3 shells. Restrictions vary from county to county - approximately 90 different rifle restrictions in the State of Virginia based on the county restrictions. Sawed-off firearms are illegal to own unless with a permit, if barrel less than 16 inches for rifle, and 18 inches for shotgun. Striker 12 - drums holds 12 or more rounds and is illegal.

Washington

(46) Cannot use fully automatic for hunting.

West Virginia

(45) Cannot use fully automatic firearms for hunting.

Comments Provided by Law Enforcement Agencies

- (1) No research.
- (2) No research.
- (3) NOBLE and others forwarded information to a U.S. Senator on circumstances concerning police officers killed or injured by these weapons. No data was provided.
- (4) No research.
- (7) The organization stated: "Most of the data available on guns and crime does not provide the detail needed to identify the types of guns listed. . . . We have conducted several surveys that refer to assault rifles generically, including the Survey of Inmates in State Correctional Facilities 1991, Survey of Inmates in Local Jails 1995, and the Survey of Adults on Probation 1995. The data on assault weapons has not been analyzed in the recently released Survey of Adults on Probation 1995 or in the yet to be released Survey of Inmates in Local Jails 1995.

"Our report Guns Used in Crime includes the results of an analysis of the stolen data from the FBI's National Crime Information Center database. Our analysis was limited to general categories of guns and calibers of handguns. The recent evaluation of the assault weapons ban funded by the National Institute of Justice analyzed a more recent set of the same data with an emphasis on assault weapons. The results of this evaluation were reported in Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994."

"BJS [Bureau of Justice Statistics] supports the Firearms Research Information System (FARIS). . . . This database contains firearms-related information from surveys, research, evaluations, and statistical reports. . . . We queried this database for any research on assault weapons. The results of the query include both the reports listed above, as well as several others. Please note that in BJS's report Guns Used in Crime refers to the report Assault Weapons and Homicide in New York City prepared by one of our grantees. While the data are from 1993, the report provides interesting insights into the use of assault weapons and homicide. Another source of data on assault weapons and crime is the FBI's Law Enforcement Officers Killed and Assaulted series, which records the type of gun used in killings of police officers. Several of the reports listed in the FARIS query used these data, including Cop Killers: Assault Weapons Attacks on America's Police, and Cops Under Fire: Law Enforcement Officers Killed with Assault Weapons or Guns with High Capacity Magazines."

(9) Guns in America: National Survey on Private Ownership and Use of Firearms (May 1997) states: The 1994 NSPOF (National Survey of Private Ownership of Firearms) estimates for the total number of privately owned firearms is 192 million: 65 million handguns, 70 million rifles, 49 million shotguns, and 8 million other long guns.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DEC 10 1997

O:F:S:DMS
3310

Dear Sir or Madam:

On November 14, 1997, the President and the Secretary of the Treasury decided to conduct a review to determine whether modified semiautomatic assault rifles are properly importable under Federal law. Under 18 U.S.C. section 925(d)(3), firearms may be imported into the United States only if they are determined to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The firearms in question are semiautomatic rifles based on the AK47, FN-FAL, HK91, HK93, SIG SG550-1, and Uzi designs.

As part of the review, the Bureau of Alcohol, Tobacco and Firearms (ATF) is interested in receiving information that shows whether any or all of the above types of semiautomatic rifles are particularly suitable for or readily adaptable to hunting or organized competitive target shooting.

Although ATF is not required to seek public comment on this study, the agency would appreciate any factual, relevant information concerning the sporting use suitability of the rifles in question.

Your voluntary response must be received no later than 30 days from the date of this letter; those received after that date cannot be included in the review. Please forward your responses to the Bureau of Alcohol, Tobacco and Firearms, Department TA, P.O. Box 50860, Washington, DC 20091.

Sincerely yours,


John W. Magaw
Director

Comments Provided by Industry Members and Trade Associations

- (12) The respondent felt that definitions and usage should be subject to rulemaking. The respondent stated that limits on "sporting" use do not take into account firearms technology and its derivative uses among millions of disparate consumers. Millions of gun owners currently engage in informal target competition.

The respondent stated that the firearms are suitable for sporting purposes and that ATF's practice of making "ad hoc" revisions to import criteria disrupts legitimate commerce. The respondent recommends that all changes to criteria should be subject to rulemaking.

- (19) The respondent submitted a brochure and a statement supported by seven letters from FFL's who sell the SLR-95 and 97 and ROMAK 1 and 2. The respondent and all the supporting letters attest to the suitability of these guns for hunting because (1) they are excellent for deer or varmint hunting; (2) they are used by many for target shooting; (3) their ammunition is readily available and affordable; and (4) they are excellent for young/new hunters because of low recoil, an inexpensive purchase price, durability, and light weight, as well as being designed only for semiautomatic fire.
- (20) One respondent submitted results of its independently conducted survey, which consisted of 30 questions. The results of the survey suggest that 36 percent of those queried actually use AK47-type rifles for hunting or competition, 38 percent use L1A1-type rifles for hunting or competition, and 38 percent use G3-type rifles for hunting or competition. Other uses include home defense, noncompetitive target shooting, and plinking. Of those queried who do not currently own these types of rifles, 35 percent would use AK-type rifles for hunting or competition, 36 percent would use L1A1-type rifles for hunting or competition, and 37 percent would use G3-type rifles for hunting or competition.
- (22) The respondent claims that the majority of the study rifles' length and calibers can be used only for sporting purposes. The respondent asserts that the only technical detail remaining after the 1989 decision that is similar to a military rifle is the locking system. After 1989, the imported rifles have no physical features of military assault rifles. All have features which can be found on any semiautomatic sporting/hunting rifle.

However, the respondent writes that the Uzi-type carbines are "not suitable for any kind of sporting events other than law enforcement and military competitions because the caliber and locking system do not allow precise shooting over long distances."

- (23) One respondent, who imports the SAR-8 and SAR-4800 that are chambered for .308 Winchester ammunition, states that neither rifle possesses any of the characteristics of either the 1989 determination or the 1994 law. The respondent states that both are permitted in match rifle and other competitions. The respondent states that only two questions should be considered to determine hunting suitability of a rifle: Whether the caliber is adequate to take one or more game species and whether the gun is safe and reliable. The respondent states that there is no factual or legal basis to conclude that the rifles are not "particularly suitable" for sporting purposes.
- (24) The respondent writes: "The particular firearms differ from other guns that are universally acceptable only in cosmetic ways. There is no functional difference between semiautomatic firearms based on the external features that have been keyed on in an attempt to implement the import restrictions of the 1994 Crime Bill. As further attempts to differentiate functionally identical firearms by these features for the purposes of culling out those that might be politically suitable for an administrative import ban is wrong."
- (25) The respondent writes that the SLG95 was developed exclusively for hunting and competitive shooting. The respondent points out that it is capable of single firing only and cannot be reassembled for use as an automatic weapon. It is made for endurance and accuracy to 300 meters.
- (26) The respondent recommends AK47 variants specifically, but believes all study rifles are suitable or adaptable for sporting. The respondent states that a Galil-chambered .308/.223 with a two-position rear sight, adjustable front sight, or scope mount channel, are reliable, durable, accurate, and suitable for hunting and organized competitive shooting. The respondent states that the Uzi, which chambers 9mm and 40 S&W, two-position rear sight, and an adjustable front sight is suitable for organized competitive target shooting.
- (27) The respondent states that the SIG-SG550-1, in its original configuration, never possessed assault rifle features. The respondent states that it was built as a semiautomatic, not a fully automatic that was converted or modified to semiautomatic. It does have protruding pistol grip, and its ergonomics are geared toward its original design of goal-precision shooting. The respondent says that the name "Sniper" was a marketing decision, and it is extremely popular in .223 competitions. Its price isolates the gun to the competitor/collector.

- (28) Letters from H&K users were submitted in support of their continued importation and use as sporting arms. Specifically, the SR9 and PSG1 were said to be clearly suitable and utilized daily for hunting and target shooting. The respondent states that sport is defined as "an active pastime, diversion, recreation" and that the use of these is all the justification needed to allow their importation. The PSG1 has been imported since 1974, and the SR9 since 1990. The semiautomatic feature dates to turn of the century.

The respondent states that the cost would dissuade criminals from using them. The respondent refers to ATF's reports "Crime Gun Analysis (17 Communities)" and "Trace Reports 1993-1996" to show that the H&K SR9 and PSG1 are not used in crime. In the 4-year period covered by the reports, not one was traced.

- (29) The respondent faults the 1989 report both for not sufficiently addressing the issue of ready adaptability, as well as for the limited definition of sporting purposes. The respondent states that sport is defined as "that which diverts, and makes mirth; pastime, diversion." The respondent says that the NRA sponsors many matches, and personally attests to the FN-FAL and HK91 as being perfectly suitable for such matches. The respondent states that the rifles are also used for hunting deer, rabbits, and varmints. Further, the respondent remarks that the use of these rifles in crime is minuscule.

Importer/Individual Letters

On January 15, 1998, the study group received a second submission from Heckler and Koch, dated January 14, 1998. It transmitted 69 letters from individuals who appeared to be answering an advertisement placed in Shotgun News by Heckler and Koch. The study group obtained a copy of the advertisement, which requested that past and current owners of certain H&K rifles provide written accounts of how they use or used these firearms. The advertisement stated that the firearms in question, the SR9 and the PSG1, were used for sporting purposes such as hunting, target shooting, competition, collecting, and informal plinking. The advertisement also referred to the 120-day study and the temporary ban on importation, indicating that certain firearms may be banned in the future.

Synopses of Letters:

1. The writer used his SR9 to hunt deer (photo included).
2. The writer used his SR9 to hunt deer (photo included).
3. The writer used his SR9 for informal target shooting and plinking.
4. The writer used his SR9 for target practice and recreation.
5. The writer (a police officer) used SR9 to hunt. Said that it's too heavy and expensive for criminals.

6. The writer used his SR9 for competition.
7. The writer used H&K rifles such as these around the farm to control wild dog packs.
8. The writer used his SR9 to hunt deer.
9. The writer used his SR9 to hunt, participate in target practice, and compete.
10. The writer used his H&K rifles for informal target shooting.
11. The writer used his SR9 to hunt elk because it's rugged, and to shoot targets.
12. The writer used his SR9 to target practice.
13. The writer used his HK91 to hunt varmints and compete in military rifle matches.
14. The writer does not use the firearms but is familiar with their use for target shooting, hunting, and competition.
15. The writer uses HK firearms for DCM marksmanship competition.
16. The writer used his HK93 for 100-yard club matches and NRA-high power rifle matches.
17. The writer does not own the firearms but enjoys shooting sports and collecting.
18. The writer used his HK91 to hunt deer, boar, and mountain goat and in high-power match competitions.
19. The writer used his SR9 to shoot targets and for competitions.
20. The writer used his HK91 to shoot varmints, hunt small and big game, and shoot long-range silhouettes.
21. The writer used his SR8 to hunt deer, target shoot, and plink.
22. The writer used his HK93 to shoot in club competitions.
23. The writer used his SR9 to shoot targets because the recoil does not impact his arthritis.
24. The writer (a police officer) does not own the firearm but never sees HKs used in crime.
25. The writer used his HKs for target shooting, competition, and collection.
26. The writer does not own the firearms but likes recreational target shooting.
27. Writer does not own the firearms but states, "Don't ban."

28. The writer used his SR9 for hunting deer, varmints, and groundhogs; for target shooting; and for occasional competitions.
29. The writer used his SR9 to hunt deer because it's accurate, rugged, and reliable.
30. The writer used his SR9 to hunt deer and elk.
31. The writer used his SR9 to target shoot.
32. The writer used his SR9 to hunt deer and target shoot.
33. The writer used his HK91 to shoot military rifle 100-yard competitions.
34. The writer used his SR9 for hunting varmints and coyotes, for target shooting, and for competitions.
35. The writer used his SR9 to hunt deer and target shoot.
36. The writer (a former FBI employee) used his SR9 for hunting varmints and for precision and target shooting.
37. The writer used his HK for target shooting and competition.
38. The writer used his SR9 for informal target shooting and plinking and his HK91 for bowling pin matches, high-power rifle competitions, informal target shooting, and plinking.
39. The writer used his SR9 to plink and shoot targets, saying it's too heavy for hunting.
40. The writer has an HK91 as part of his military collection and indicates it may be used for hunting.
41. The writer used his SR9 to target shoot.
42. The writer used his SR9 to hunt deer and target shoot.
43. The writer does not own the firearms but says, "Don't ban."
44. The writer used his SR9 and HK93 for hunting deer, for target shooting, and for home defense.
45. The writer states, "Don't ban."
46. Writer states, "Don't ban."
47. Writer states, "Don't ban."
48. The writer owns an SR9; no use was reported.
49. Writer used his SR9 to compete in club matches and "backyard competitions."
50. The writer used his HK to hunt boar and antelope.

51. The writer states, "Don't ban."
52. The writer (a police officer) does not own the firearms but states that the are not used by criminals.
53. The writer used his HK91 to hunt deer.
54. The writer (a police trainer) says that the PSG1 is used for police sniping and competitive shooting because it's accurate. He says that it's too heavy to hunt with and has attached an article on the PSG1.
55. The writer used her two PSG1s for target shooting and fun.
56. The writer used his SR9 and PSG1 to hunt and target shoot.
57. The writer used his two PSG1s to hunt and target shoot.
58. The writer provides an opinion that the SR9 is used to hunt and target shoot.
59. The writer used his PSG1 for hunting deer and informal target shooting.
60. The writer used his PSG1 to target shoot and plink.
61. The writer states, "Don't ban."
62. The writer used his HK91 to target shoot.
63. The writer used his HK91 to target shoot.
64. The writer (a U.S. deputy marshall) used his SR9 to shoot at the range.
65. The writer used his SR9 to hunt deer and coyotes.
66. The writer used his SR9 to competitively target shoot.
67. The writer used his SR9 to hunt deer and bear.
68. The writer uses military-type rifles like these for predator control on the farm.
69. The writer used his SR9 to target shoot, plink, and compete in DCM matches.

Comments Provided by Interest Groups

- (7) Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994, Final Report. March 13, 1997.
- (8) Identical comments were received from five members of the JPFO. They are against any form of gun control or restriction regardless of the type of firearm. References are made comparing gun control to Nazi Germany.

- (9) The respondent contends that police/military-style competitions, "plinking," and informal target shooting should be considered sporting. Note: The narrative was provided in addition to survey that Century Arms put on the Internet.

The respondent questions ATF's definition of "sporting" purposes. The respondent contends that neither the Bill of Rights nor the Second Amendment places restrictions on firearms based on use.

- (13) Citing the 1989 report, the respondent states that the drafters of the report determined what should be acceptable sports, thus excluding "plinking."

The respondent states that appearance (e.g., military looking) is not a factor in determining firearms' suitability for sporting purposes. It is their function or action that should determine a gun's suitability. Over 50 percent of those engaged in Practical Rifle Shooting use Kalashnikov variants. Further, citing U.S. vs. Smith (1973), the "readily adaptable" determination would fit all these firearms.

- (14) The respondent states that the vast majority of competitive marksmen shoot either domestic or foreign service rifles. Only 2-3 participants at any of 12 matches fire bolt-action match rifles. If service rifles have been modified, they are permitted under NRA rule 3.3.1.

The respondent says that attempts to ban these rifles "is a joke."

- (15) The respondent states that these firearms are used by men and women alike throughout Nebraska. All of the named firearms are used a lot all over the State for hunting. The AK47 has the same basic power of a 30/30 Winchester. All of these firearms function the same as a Browning BAR or a Remington 7400. Because of their design features, they provide excellent performance.

- (16) The respondent states that the Bill of Rights does not show the second amendment connected to "sporting purposes." The respondent says that all of the firearms in question are "service rifles," all can be used in highpower rifle competition (some better than others), but under no circumstances should "sporting use" be used as a test to determine whether they can be sold to the American public. The respondent states that "sporting use" is a totally bogus question.

- (17) The respondent's basic concern is that the scope of our survey is significantly too narrow (i.e., not responsive to the Presidential directive, too narrow to address the problem, and inadequate to the task). The respondent states, "We do not indicate that our determination will impact modifications made to skirt law. We rely on the opinions of the 'gun press.' At a minimum, the Bureau should deny importation of: any semiautomatic capable of accepting with a capacity of more than 10 rounds, and any semiautomatic rifle with a capacity to accept more rounds than permitted by the State with the lowest number of permitted rounds. Deny any semiautomatic that incorporates cosmetically altered 'rule-beating' characteristics. Deny any semiautomatic that can be converted by using parts available domestically to any of the 1994 banned guns/characteristics. Deny any semiautomatic manufactured by any entity controlled by a foreign government. OR manufactured by a foreign entity that also manufactures, assembles or exports assault-type weapons. Deny any semiautomatic that contains a part that is a material component of any assault type weapon made, assembled, or exported by the foreign entity which is the source of the firearm proposed to be imported."

"A material component of any assault type weapon, assembled or exported by the foreign entity, which is, the source of the firearms proposed to be imported. The gun press has fabricated 'sporting' events to justify these weapons. The manner in which we are proceeding is a serious disservice to the American people."

Attachments: That Was Then, This is Now: Assault Weapons: Analysis, New Research, and Legislation: Assault Weapons and Accessories in America; and Cop Killers. All authored by the Violence Policy Center.

- (30) The respondent states, "At least for handguns, and among young adult purchasers who have a prior criminal history, the purchase of an assault-type firearm is an independent risk factor for later criminal activity on the part of the purchaser."

NOTE: The above study was for assault-type handguns used in criminal activity versus other handguns. The study involved only young adults, and caution should be used in extending these results to other adults and purchasers of rifles. However, the respondent states, it is plausible that findings for one class of firearms may pertain to another closely related class.

- (31) The 1996 National Survey of Fishing, Hunting and Wildlife-Associated Recreation. The publication outlines 1996 expenditures for guide use and percentage of hunters using guides for both big game and small game hunting.

- (32) In a memo from the Center to Prevent Handgun Violence the sections are Legal Background, History of Bureau Application of the "Sporting Purposes" Test, The Modified Assault Rifles under Import Suspension Should Be Permanently Barred from Importation, [The Galils and Uzis Should Be Barred from Importation Because They Are Banned by the Federal Assault Weapon Statute, and All the Modified Assault Rifles Should Be Barred from Importation Because They Fail the Sporting Purposes Test]. The conclusion states: "The modified assault rifles currently under suspended permits should be permanently barred from importation because they do not meet the sporting purposes test for importation under the Gun Control Act of 1968 and because certain of the rifles [Galils and Uzis] also are banned by the 1994 Federal assault weapon law."

Comments Provided by Individuals

- (10) The respondent does not recommend the Uzi, but he highly recommends the others for small game and varmints. He feels that the calibers of these are not the caliber of choice for medium or large game; however, he believes that the SIG and H&K are the best-built semiautomatics available.

He can not and will not defend the Uzi, referring to it as a "piece of junk."

The respondent feels that because of their expense and their being hard to find, the study rifles (excluding the Uzi) would not be weapons of choice for illegal activities.

- (11) The respondent questions ATF's definition of "sporting" and "organized shooting." He feels that ATF's definition is too narrow and based on "political pressure."

The respondent feels that the firearms are especially suitable for competitive shooting and hunting and that the restrictions on caliber and number of cartridges should be left to the individual States. He has shot competitively for 25 years.

- (18) The respondent specifically recommends the MAK90 for hunting because its shorter length makes for easier movement through covered areas, it allows for quicker follow-up shots, its open sights allow one to come up upon a target more quickly, and it provides a quicker determination of whether a clear shot exists through the brush than with telescopic sighting.

- (21) The respondent states that the second amendment discusses "arms," not "sporting arms." The respondent further states that taxpayer money was spent on this survey and ATF has an agenda. A gun's original intent (military) has nothing to do with how it is used now. "The solution to today's crime is much the same as it always has been, proper enforcement of existing laws, not the imposition of new freedom-restricting laws on honest people."

Information on Articles Reviewed

- (1) Describes limited availability of Uzi Model B sporter with thumbhole stock.
- (2) Describes rifle and makes political statement concerning 1989 ban.
- (3) Describes Chinese copy of Uzi with thumbhole stock.
- (4) Quality sporting firearms from Russia.
- (5) Short descriptions of rifles and shotguns available. Lead-in paragraph mentions hunting. Does not specifically recommend any of the listed weapons for hunting.
- (6) Geared to retail gun dealers, provides list of available products. States L1A1 Sporter is pinpoint accurate and powerful enough for most North American big game hunting.
- (7) Discusses the use of the rifle for hunting bear, sheep, and coyotes. Describes accuracy and ruggedness. NOTE: The rifle is a pre-1989 ban assault rifle.
- (8) Deals primarily with performance of the cartridge. Makes statement that AK 47-type rifle is adequate for deer hunting at woods ranges.
- (9) Discusses gun ownership in the United States. Highlighted text (not by writers) includes the National Survey of Private Ownership of Firearms that was conducted by Chilton Research Services of Drexel Hill, Pennsylvania during November and December 1994: 70 million rifles are privately held, including 28 million semiautomatics.
- (10) Discusses pre-1989 ban configuration. Describes use in hunting, and makes the statement that "in the appropriate calibers, the military style autoloaders can indeed make excellent rifles, and that their ugly configuration probably gives them better handling qualities than more conventional sporters as the military discovered a long time ago."
- (15) Not article - letter from Editor of Gun World magazine discussing "sport" and various competitions. Note: Attached submitted by Century Arms.
- (16) Letter addressed to "To Whom It May Concern" indicating HK91 (not mentioned but illustrated in photos) is suitable for hunting and accurate enough for competition. Note: Submitted by Century Arms.
- (17) Describes a competition developed to test a hunter's skill. Does not mention any of the rifles at issue.
- (18) Not on point - deals with AR 15.
- (19) Describes function, makes political statement.
- (20) Discusses function and disassembly of rifle.
- (21) Not on point - deals with AR 15 rifle.

- (22) Discusses competition started to show sporting use of rifles banned for sale in California. Unknown if weapons in study were banned in California in 1990.
- (23) Not on point - deals with national matches.
- (24) Not on point - deals with various surplus military rifles.
- (25) Deals with 7.62x39mm ammunition as suitable for deer hunting and mentions the use in SKS rifles, which is a military style semiautomatic but not a part of the study.
- (26) Not on point - deals with reloading.
- (27) Not on point - deals with reloading.
- (28) Not on point - deals with AR15 rifles in competition.
- (29) Not on point - deals with the SKS rifle.
- (30) Not on point - deals with national matches.
- (31) Not on point - deals with national matches.
- (32) Not on point - deals with national matches.
- (33) Not on point - deals with national matches at Camp Perry.
- (34) Not on point - deals with national matches at Camp Perry.
- (35) Not on point - deals with 1989 national matches at Camp Perry.
- (36) Not on point - deals with Browning BAR sporting semiautomatic rifles.
- (38) Not on point - deals with AR15, mentions rifle in caliber 7.62 x 39.
- (39) Not on point - deals with bullet types.
- (40) Not on point - deals with reloading.
- (41) Discusses tracking in snow. Rifles mentioned do not include any rifles in study.
- (42) Deals with deer hunting in general.
- (43) Deals with rifles for varmint hunting. Does not mention rifles in study.
- (44) Not on point - deals with hunting pronghorn antelope.
- (45) Deals with various deer rifles.
- (46) Not on point - deals with two Browning rifles' recoil reducing system.
- (47) Not on point - deals with bolt-action rifles.
- (48) Not on point - deals with ammunition.

- (49) Deals with modifications to AR15 trigger for target shooting.
- (50) Not on point - deals with M1 Garand as a target rifle.
- (51) Not on point - deals with reloading.
- (52) Deals with impact of banning semiautomatic rifles would have on competitors at Camp Perry.
- (53) Deals with economic impact in areas near Camp Perry if semiautomatic rifles banned. Reprint from Akron Beacon Journal.
- (54) Deals with training new competitive shooters - mentions sporting use of assault rifles, i.e., AR15.
- (55) Not on point - article about Nelson Shew.
- (56) Not on point - deals with reloading.
- (57) Not on point - deals with shooting the AR15.
- (58) Not on point - article about AR15 as target rifle.
- (59) Not on point - article about well known competitive shooter.
- (67) Not on point - deals with reloading.
- (68) Discusses semiautomatic versions of M14.
- (69) Discusses gas operation.
- (70) Discusses right adjustment on M1 and M1A rifles.
- (71) Discusses M1A and AR15-type rifles modified to remove them from assault weapon definition, and their use in competition.
- (72) Deals with AR15 type rifle.
- (73) Not on point - deals with AR15.
- (74) Not on point - deals with target rifle based on AR15/M16.
- (75) Not on point - deals with SKS rifle.
- (76) Not on point - deals with reloading 7.62x39mm cartridge.
- (77) Not on point - deals with reloading. Mentions 7.62x39mm.
- (78) Not on point - deals with ammunition performance.
- (79) Deals with .223 Remington caliber ammunition as a hunting cartridge.
- (80) Describes M1A (semiautomatic copy of M14) as a target rifle.
- (81) Not on point - deals with bullet design.
- (82) Not on point - deals with ammunition performance.

Information on Advertisements Reviewed

- (11) Indicates rifles are rugged, reliable and accurate.
- (12) Describes rifles, lists price.
- (13) Sporting versions of AK 47 and FAL.
- (14) Sporting version of AK 47, reliable, accurate.
- (61) Catalog of ammunition - lists uses for 7.62x39mm ammunition.
- (62) Catalog of ammunition - lists uses for 7.62x39mm ammunition.
- (63) Catalog of ammunition - lists uses for 7.62x39mm ammunition.
- (64) Catalog of ammunition - lists uses for 9mm ammunition.
- (65) Catalog of ammunition - lists uses for 9mm ammunition.
- (66) Catalog of ammunition - lists recommended uses for 9mm ammunition.

SENATE THIRD READING
 SB 1446 (Hancock)
 As Amended March 28, 2016
 Majority vote

SENATE VOTE: 22-15

Committee	Votes	Ayes	Noes
Public Safety	5-2	Jones-Sawyer, Lopez, Low, Quirk, Santiago	Melendez, Lackey

SUMMARY: Prohibits the possession of large-capacity magazines, with specified exceptions. Specifically, **this bill**:

- 1) Makes it an infraction, commencing July 1, 2017, for any person who possesses a large-capacity magazine punishable as follows:
 - a) A fine not to exceed \$100 for the first offense;
 - b) A fine not to exceed \$250 for the second offense; and,
 - c) A fine not to exceed \$500 for the third or subsequent offense.
- 2) Requires a person who, prior to July 1, 2017, legally possesses a large-capacity magazine to dispose of that magazine by any of the following means:
 - a) Remove the large-capacity magazine from the state;
 - b) Prior to July 1, 2017, sell the large-capacity magazine to a licensed firearms dealer;
 - c) Destroy the large-capacity magazine; or,
 - d) Surrender the large-capacity magazine to a law enforcement agency for destruction.
- 3) Specifies the following exceptions:
 - a) An individual who honorably retired from being a sworn peace officer, or an individual who honorably retired from being a sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties;
 - b) A federal, state, or local historical society, museum or institutional society, or museum or institutional collection, that is open to the public, provided that the large-capacity magazine is unloaded, properly housed within secured premises, and secured from unauthorized handling;
 - c) A person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition, and possessed it no longer than necessary to deliver or transport it to the nearest law enforcement agency;

- d) A forensic laboratory, or an authorized agent or employee thereof in the course and scope of his or her authorized activities;
- e) The receipt or disposition of a large-capacity magazine by a trustee of a trust, or an executor or administrator of an estate, including an estate that is subject to probate, that includes a large-capacity magazine; or,
- f) A person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds 10 or fewer rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm.

EXISTING LAW:

- 1) Defines a "large-capacity magazine" as any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:
 - a) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds;
 - b) A .22 caliber tube ammunition feeding device; or,
 - c) A tubular magazine that is contained in a lever-action firearm.
- 2) States, except as provided, commencing January 1, 2000, any person in California who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine is punishable by imprisonment in the county jail for either a misdemeanor or a felony.
- 3) Provides the following exceptions to the prohibition against manufacturing or causing to be manufactured, importing into the state, keeping for sale, or offering or exposing for sale, or giving, or lending, any large-capacity magazine:
 - a) Government agency charged with law enforcement;
 - b) Sworn peace officer who is authorized to carry a firearm in the course and scope of that officer's duties ;
 - c) Sale or purchase by a licensed person;
 - d) Loan under specified circumstances;
 - e) Importation by a person in legal possession prior to January 1, 2000;
 - f) Delivery to a gun smith;
 - g) Person with permit to sell to an out-of-state client;
 - h) Entity that operates armored vehicle business;
 - i) Manufacture for government agency or military;

- j) Use as a prop; or,
 - k) Holder of a special weapons permit for specified purposes.
- 4) Declares large-capacity magazines to be a nuisance.
- 5) Provides that the Attorney General, district attorney, or city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a nuisance under any of the specified code sections, including the code section relating to large-capacity magazines.
- 6) States that the weapons listed in the specified code sections constituting a nuisance shall be subject to confiscation and summary destruction whenever found within California.

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: According to the author, "In 1999, the Legislature passed SB 23 (Perata) [Chapter 129, Statutes of 1999] which prohibited the possession of assault weapons, such as the AK-47 and created a generic definition of an assault weapon. As part of that legislation, the importation, manufacture and sale of large capacity ammunition magazines was strictly prohibited. However, the possession of high capacity magazines was not prohibited.

"Federal law also outlawed possession of high capacity magazines as part of the 1994 federal assault weapons ban but allowed current owners to keep them under a 'grandfathering' provision. The federal assault weapons ban was allowed to expire in 2004. Research has shown that, prior to the implementation of the federal assault weapons ban, these high capacity magazines were used in between 14 and 26% of guns used in crime.

"High capacity ammunition magazines are ammunition feeding devices that hold more than ten rounds of ammunition. These mega-magazines can hold upwards of 100 rounds of ammunition and allow a shooter to rapidly fire without reloading.

"High capacity magazines are not designed for hunting or target shooting. High capacity magazines are military designed devices. They are designed for one purpose only – to allow a shooter to fire a large number of bullets in a short period of time.

"This bill will make clear that possession of these 'mega-magazines' is also prohibited. Law enforcement officers have told us that, because the Penal Code currently fails to specifically prohibit possession, the law is very difficult to enforce. This needs to be fixed and this measure addresses that by prohibiting the possession."

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744 FN: 0003530

**Proposals to Reduce Gun Violence:
Protecting Our Communities While Respecting the Second Amendment.**

Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights

February 12, 2013

Prepared Testimony by Laurence H. Tribe*

Mr. Chairman and members of the Committee:

I am honored and grateful for the invitation to testify before you today. I know I am not alone in wanting us to do all we can, consistent with the Constitution, to reduce the awful specter of rampant gun violence and the far too frequent massacres of our children, our friends, and our fellow citizens.

Like all decent Americans, I felt a pang of unspeakable horror on December 14, when I learned that twenty first-grade children had been brutally slaughtered in their first-grade classroom in Newtown, Connecticut. Those children, and the brave grown-ups who died at Adam Lanza's hands as they tried to save the young lives entrusted to their care, deserve every effort to translate our shared grief into shared national action. That action must not be deterred by the defeatist argument that, because we will never solve this problem in its entirety, we might as well give up. Nor should it be deterred by distorted interpretations of the United States Constitution. As others have often reminded us about that great and enduring document, it is many things to many people, but one thing it is *not* is a suicide pact.

* Carl M. Loeb University Professor and Professor of Constitutional Law, Harvard Law School. The institutional affiliation is noted for identification purposes only.

While we debate the pending proposals to reduce gun violence through measures focused on gun safety as part of a holistic national response, it's crucial that we not permit any part of our Constitution to become a collateral casualty of our conversation. Proposals to disarm the American people, to leave firearms solely in the hands of the military and the police, have been decisively taken off the table – if they were ever truly *on* the table – by the Supreme Court's Second Amendment decisions in 2008 and 2010. "Slippery slope" arguments predicated on the unsettled state of the law prior to 2008 have been rendered irrelevant. The only proposals under serious consideration in this body are reasonable measures that would fully respect the basic rights of responsible citizens to use ordinary firearms for self-defense and other lawful purposes. They cannot lead to unacceptably extreme measures as long as the Supreme Court sits.

Having examined those proposals, having looked at the steps announced by the President under his power faithfully to execute the laws of the United States, and having studied the decisions of the Supreme Court and lower courts around the country, I am convinced that nothing under discussion in the Senate Judiciary Committee represents a threat to the Constitution or even comes close to violating the Second Amendment or the Constitution's structural limits either on congressional power or on executive authority.

Undoubtedly we should have a national debate about how best to reconcile the Second Amendment rights of every individual with the full range of proposals to reduce gun violence in America. As someone who has studied and taught constitutional law for four decades and argued dozens of cases in the Supreme Court and dozens more in the lower courts, I am obviously interested in engaging those questions. In today's testimony, however, I will focus not on

competing theories of how the Second Amendment ought to have been interpreted but on the law as it stands. I am here not as an academic theorist but as a constitutional lawyer. As a lawyer, I've won some and I've lost some, and I know a losing argument when I see it. And the argument that any of the proposals to reduce gun violence currently being considered here might be struck down as unconstitutional is decidedly a losing argument.

There is plenty of room for policy debate over the best steps to take to reduce gun violence, but we mustn't confuse those policy differences or the ideological and cultural divisions that underlie them with genuine constitutional doubts about whether any of those steps crosses the constitutional line. Everyone in this room knows that anything Congress or the President does in this field will confront opposition. And in a nation as litigious as ours, some of that opposition will no doubt find its way into the courts. But there is no basis to suppose that the courts will or should rebuff any of the steps being debated here today. They should not, and they will not.

What I hope to do this morning, setting all hyperbole aside and approaching the law on the books with a fair-minded eye, is explain why reforms such as those this committee is considering clearly pass constitutional muster.

I. Introduction:

Taking the Second Amendment Seriously, But Applying it Cautiously

I begin by reaffirming my agreement with the Supreme Court that the Second Amendment guarantees Americans the right as individuals to possess guns for reasonable self-defense. Some of my friends and colleagues devoted to the cause of responsible firearms regulation evidently wish to relitigate this point. They continue to insist that the best reading of the Second Amendment would secure gun rights only in connection with service in the state militia and not for individual possession and use. For nearly a decade and a half, I have disagreed with them and have defended the individual rights view ultimately taken by the Supreme Court in 2008. In October of 1999, for example, I joined a fellow constitutional law scholar in publishing an op-ed in *The New York Times* arguing that “bearing arms [is] a ‘privilege’ of each citizen.”¹ I continue to defend this position today.

That matters only insofar as it bears on my credibility as a witness in today’s hearing. If I were among those who had *opposed* the individual rights interpretation adopted by the Supreme Court in *Heller*, some might wonder whether my conclusions about the regulations *Heller* permits Congress to adopt reflect wishful thinking rather than a realistic and sympathetic appraisal of what the Court that decided *Heller* would in fact permit. But there is no wishful thinking here. I am being a hard-headed realist in reading the *Heller* decision and extrapolating conclusions from the majority opinion.

¹ Laurence H. Tribe & Akhil Reed Amar, *Well Regulated Militias and More*, N.Y. TIMES, Oct. 28, 1999, at A25; 1 Laurence H. Tribe, *American Constitutional Law* 900–902 (3d ed. 2000).

Although many in the community advocating gun rights had long assumed that the individual rights interpretation governed the scope of the Second Amendment, it was not until the Supreme Court's 2008 ruling in *District of Columbia v. Heller*² that a majority of the Court's Justices agreed. In so doing, the Court recognized that the core individual liberty protected by the amendment affords Americans the right to purchase and store operable firearms for self-defense in the home. Two years later, in *McDonald v. City of Chicago*,³ the Court extended the *Heller* ruling to cover restrictions imposed by state and local governments, making it unmistakably clear that the right at issue was not and is not simply a right of the state-organized militia against being overrun by federal authority.

Despite this fundamental affirmation, the *Heller* decision is exceedingly narrow in many important respects. As Judge Brett Kavanaugh of the D.C. Circuit Court of Appeals recently put it, "It bears emphasis that *Heller*, while enormously significant jurisprudentially, was not revolutionary in terms of its immediate real-world effects on American gun regulation." "Indeed," he continued, "*Heller* largely preserved the status quo of gun regulation in the United States."⁴ To understand what he meant, it helps to look first to the Washington, DC ordinance implicated in the *Heller* case. The District had in place one of the most restrictive firearms regulations in the nation; it essentially outlawed the possession of handguns in the home, where the need for self-defense is, as Justice Scalia wrote, "most acute."⁵ For the majority on the Court, a policy like the one the District had adopted, a policy on the outer edge of gun control's reach in the United States, was irreconcilable with the Second Amendment.

² 554 U.S. 570 (2008).

³ 130 S.Ct. 3020 (2010).

⁴ *Heller v. Dist. of Columbia*, 670 F.3d 1244, 1270 (D.C. Cir. 2011) (Kavanaugh, J., dissenting).

⁵ *Heller*, 544 U.S. at 628.

The *Heller* decision took great pains to emphasize its relative modesty. It repeated the mantra that the Second Amendment right “is not unlimited”⁶ and devoted an entire section to listing types of regulation – for example, limits on gun ownership “by felons and the mentally ill” and, most relevant to today’s hearing, regulation of “dangerous and unusual weapons” – the constitutionality of which the Court had no intention of casting into doubt.⁷ The decision paused to note that, by specifically giving a constitutional green light to some regulatory efforts, the Court did not mean to signal that others were constitutionally dubious.⁸ Justice Scalia closed his opinion for the Court with an expression of solicitude for the regulatory goals that Washington, DC sought to advance and, more importantly, an invitation to pursue those goals with the “variety of tools” still available to the District and to other states and localities across the country even in *Heller*’s wake.⁹

Since that decision and its extension to state and local laws in 2010, the vast majority of federal and state courts to adjudicate Second Amendment claims have responsibly hewed to the cautious approach espoused by the Supreme Court in *Heller* and *McDonald*. For example, in a ruling highly relevant to the topic of this hearing, the D.C. Circuit recently upheld the constitutionality of Washington D.C.’s assault weapons ban, which included a restriction on

⁶ *Id.* at 595, 626.

⁷ *Id.* at 626 – 28.

⁸ *Id.* at 627 n. 26. There is no doubt, for instance, that regulatory provisions targeting firearms and ammunitions *manufacturers* in addition to those who transfer, possess, carry, or use the resulting weapons are at least as easy to defend from Second Amendment challenge as are measures that do not take effect until the point of sale.

⁹ *Id.* at 636.

high-capacity magazines, as well as gun registration requirements.¹⁰ The majority in the case, following the broad consensus that has emerged among federal and state judges,¹¹ evaluated the regulations against a standard of heightened judicial scrutiny while preserving both the option to adopt a more skeptical mode of review for restrictions on core self-defense firearm possession and the option to exempt other laws from Second Amendment review entirely when they do not enter the amendment's zone of protected conduct.¹² In another notable decision staking out a similar approach, a panel of the Seventh Circuit Court of Appeals struck down Chicago's firing-range ban given the close nexus between regular firing practice and training and safe, responsible self-defense in the home.¹³ And state appellate courts from North Carolina to Wisconsin to California have joined with their federal brethren in upholding state restrictions on firearms ownership under this middle-of-the-road approach that molds the degree of judicial scrutiny to the extent of a law's burden on the core self-defense right secured by the Second Amendment.¹⁴

The central message of *Heller* and its lower-court progeny is thus to take the application of the Second Amendment seriously but also cautiously. When necessary to vindicate the core right to self-defense respected by *Heller*, neither courts nor lawmakers should be shy about invoking the Second Amendment. But because few public responsibilities are as important to

¹⁰ *Heller v. Dist. of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011).

¹¹ *See, e.g.*, *Kachalsky v. County of Westchester*, 701 F.3d 81, 93 – 94 (2d Cir. 2012); *United States v. Booker*, 644 F.3d 12, 25 (1st Cir. 2011) cert. denied, 132 S. Ct. 1538 (U.S. 2012); *United States v. Masciandaro*, 638 F.3d 458, 469-70 (4th Cir. 2011) cert. denied, 132 S. Ct. 756 (U.S. 2011); *United States v. Marzzarella*, 614 F.3d 85, 97 (3d Cir. 2010);

¹² *Heller*, 670 F.3d at 1256 – 58.

¹³ The court applied what it called “not quite strict scrutiny” because the law’s burden struck so close to the core Second Amendment right to self-defense in the home. *Ezell v. City of Chicago*, 651 F.3d 684, 708 (7th Cir. 2011).

¹⁴ *See, e.g.*, *Johnston v. State*, 735 S.E.2d 859 (N.C. Ct. App. 2012); *State v. Brown*, 815 N.W.2d 407 (Ct. App. Wisc. 2012); *People v. Ellison*, 196 Cal. App. 4th 1342, 1347 (2011).

good governance as legislating to secure public safety, lawmakers and jurists should not casually give the amendment an expansive scope nor unduly scrutinize reasonable firearm regulations. In the wake of the Newtown massacre and the push to propose sensible new rules about firearms, the Obama administration and many leaders in Congress have conducted themselves precisely along these lines.

II. The Second Amendment Propriety of Recent Policy Proposals

Limits on Large-Capacity Magazines

A core feature of the Assault Weapons Ban of 2013, introduced by Senator Dianne Feinstein, as well as the primary component of a freestanding bill championed by Senator Frank Lautenberg, is a ban on magazines capable of firing more than ten rounds of ammunition without reloading.¹⁵ Before moving into the weeds of the constitutional analysis, it would be useful to contrast such a high-capacity magazine restriction to the law *Heller* struck down. *Heller* axed a local ordinance that adopted about as blunt an approach to restraining gun violence as possible: By its very design, the DC law espoused disagreement with the whole idea of law-abiding gun ownership for self-defense in the home. A limit on large-capacity magazines, by contrast, is a regulation of an entirely different caliber. It does not challenge the fundamental recognition that gun possession for self-defense is a right of every citizen; it merely seeks to reset the parameters of responsible ownership to advance the cause of public safety. It operates with a scalpel rather than an ax. Even Robert Levy, the man who largely funded the challenge to DC's sweeping

¹⁵ The Assault Weapons Ban of 2013 also prohibits firearms with fixed magazines capable of holding more than ten rounds of ammunition.

handgun ban in *Heller* and served as an attorney on the case, concedes that bans on both high-capacity magazines and assault weapons almost certainly do not infringe the Second Amendment rights he successfully fought to vindicate in court.¹⁶

By any reasonable reckoning, this crucial measure might not even trigger heightened Second Amendment review at the threshold stage that the *Heller* ruling requires courts to undertake. But even if the high-capacity magazine prohibition does require further analysis, it safely falls within a zone of regulations that do not unconstitutionally abridge Second Amendment rights.

Most constitutional challenges require lawyers and scholars to carry out two stages of analysis. First, we must assess whether a given government policy even *implicates* a given right in the first place. For example, in 1915, the Supreme Court entertained a First Amendment challenge to a filmmaker's punishment under an Ohio censorship law but, in a clear misjudgment the Court would later correct, decided that movies were not even a form of "speech" entitled to First Amendment protection.¹⁷ More recently, in a ruling that may perhaps give pause to members of this committee (despite the distinct protections of the Constitution's Speech and Debate Clause), the Court concluded that votes by legislators are not a form of "speech" over which any public official can claim a personal First Amendment right.¹⁸ Assuming that a law *does* implicate the right in question, the government must then proceed to justify the challenged

¹⁶ Interview with Robert A. Levy by the Washington Post (Jan. 10, 2013), *transcript available at* http://articles.washingtonpost.com/2013-01-10/lifestyle/36272630_1_assault-weapons-high-capacity-magazines-military-style-guns.

¹⁷ *Mut. Film Corp. v. Indus. Comm'n of Ohio*, 236 U.S. 230, 243 (1915).

¹⁸ *Nevada Comm'n on Ethics v. Carrigan*, 131 S. Ct. 2343, 2350 (2011).

law so that the court hearing the challenge may evaluate, roughly speaking, whether the justification is strong enough to permit the law to stand or, alternatively, whether the measure goes too far and thus violates the Constitution.

I begin with this return to fundamentals because it never ceases to surprise me how often those engaged in legal debate talk past one another by conflating these distinct steps. In the Second Amendment context particularly, there is no excuse for making that mistake. For *Heller* itself makes it absolutely plain that not every gun regulation even triggers Second Amendment review. In other words, sometimes governments may enact regulations addressing the manufacture, transfer, possession or use of firearms that categorically fall outside the Second Amendment's scope, freeing governments of any burden even to make detailed defenses of the provisions in question. For example, the *Heller* opinion specifically named "longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" as illustrative examples of regulations that should not even receive further constitutional review.¹⁹ The importance of this point should not be underemphasized. If too many entirely reasonable firearm regulations, like assault weapon bans and background checks, or rules about trafficking and straw purchases, are subjected to heightened Second Amendment review, it will become difficult if not impossible to separate those regulations categorically from the restrictions that *Heller* specifically approved without subjecting them to any "scrutiny" at all.

¹⁹ *Dist. of Columbia v. Heller*, 554 U.S. 570, 626 - 27 (2008).

Beyond the examples appearing in the decision, *Heller* also identifies the three primary factors to consider in judging whether other types of regulation trip the Second Amendment's alarm. First, the Court carefully frames the scope of the Second Amendment to cover *only* firearms "in common use at the time."²⁰

Second, *Heller* recognized that "dangerous or unusual" weapons may be and have historically been heavily regulated or banned.²¹ It is not inconceivable – indeed, it seems quite likely – that the Court's pause to distinguish unusually dangerous weapons from widely possessed handguns had precisely the 1994 Assault Weapons Ban, which included a prohibition on high-capacity magazines, in mind. At the very least, the *Heller* majority recognized that the government could keep machine guns — "M-16 rifles and the like"—out of the hands of civilians.²² The Supreme Court thus emphatically rejected the extravagant, or as Justice Scalia characterized it, "startling" notion, still promoted by some, that the Second Amendment could fulfill its original purposes only if citizens were guaranteed a right to arm themselves to the teeth, matching in their private armories essentially the full array of weapons possessed by the United States Military.²³

Third and finally, the Court emphasized the importance of a nexus to core self-defense needs.²⁴ The majority in *Heller* had no trouble recognizing that handguns represented the

²⁰ *Id.* at 627.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 624.

²⁴ *Id.* at 599 ("Justice Breyer's assertion that individual self-defense is merely a 'subsidiary interest' of the right to keep and bear arms . . . is profoundly mistaken. He bases that assertion

“quintessential self-defense weapon,” particularly in the home.²⁵ Moreover, handguns were not categorically more dangerous than other types of firearms. So Washington D.C.’s handgun ban clearly fell within the scope of the Second Amendment.

The clarity of *Heller*’s guidance on how to apply these threshold factors begins to dissipate, however, when they no longer align so strikingly in one direction. To begin with, the Court left “dangerousness” undefined, and what the Court meant by that term is not entirely self-evident. In an obvious sense, *all* firearms are dangerous; that is what makes them effective instruments of self-defense. The *Heller* ruling, therefore, asks us to balance any *exceptional* dangerousness of particular firearm design features against the potential self-defense value of those features. For example, even if home possession of machine guns for self-defense might, on rare occasion, deter criminal trespassers more than home possession of handguns, that benefit is simply not sufficient to overcome the substantial hazards to innocent bystanders and intentional targets, in particular the police. *Heller* obviously does not contemplate asking the government to provide an intricately reasoned justification for banning machine guns; instead, it recognizes – and it surely authorizes Congress, and indeed all of us, to recognize – excessive dangerousness in the inherent design of the weapon²⁶ so as to cut off Second Amendment review at the threshold.

solely upon the prologue—but that can only show that self-defense had little to do with the right’s *codification*; it was the *central component* of the right itself.” (emphasis in original)).

²⁵ *Heller*, 544 U.S. at 629.

²⁶ Throughout this debate, opponents of restrictions on large-capacity magazines have repeatedly demanded empirical evidence showing a link between magazine capacity and gun violence. Studies in that mold certainly exist, and I discuss them later. *See, e.g.*, text accompanying notes 48 – 50. But at this threshold stage of the Second Amendment inquiry, the *Heller* decision’s meaning of dangerousness cannot be equivalent to an empirically demonstrated effect on public safety. Rather, the standard is one that asks us to examine design features to assess whether the

All things considered, I conclude that reasonably restricting magazine size and availability does not implicate the core Second Amendment right as *Heller* conceived of it. The reason is not the first factor, that of “common use,” because, of course, large-capacity ammunition magazines and the firearms outfitted for them are, by any reasonable measure, in quite common use in the United States. I note here just a few examples. The standard Glock pistol, the firearm that one reporter called “America’s handgun” in a recent book on the subject, comes equipped with a seventeen-round magazine.²⁷ And America’s most popular rifle, the AR-15 model,²⁸ typically comes with a thirty-round magazine and can accommodate magazines with even larger capacities.²⁹

But to contend that the sizeable market presence of a particular firearm feature is sufficient in itself to trigger full Second Amendment scrutiny is to misrepresent the lesson of *Heller*. The relative dangerousness and self-defense-serving capacity of a firearm or design

weapon poses an aggravated threat to safety as a common-sense matter. First, if the former were the meaning of dangerousness, the threshold inquiry, which may lead courts to conclude that the Second Amendment does not even apply, would become indistinguishable from the more advanced stage of review, in which courts scrutinize a government’s public safety rationale. Second, making empirical evidence of salutary public-safety impacts a prerequisite to gun regulation would defeat efforts to respond to new technologies and lethal features that pose a substantial threat to public safety. The Second Amendment does not require that Americans afford the gun industry a “wait and see” grace period on the (in)famous theory that even a vicious dog deserves one free bite.

²⁷ Erin McCarthy, *Why the Glock Became America’s Handgun*, POPULAR MECHANICS (Jan. 12, 2012, 6:30 AM), <http://www.popularmechanics.com/technology/military/weapons/why-the-glock-became-americas-handgun>

²⁸ Erica Goode, *Rifle Used in Killings, America’s Most Popular, Highlights Regulation Debate*, N.Y. TIMES (Dec. 16, 2012), <http://www.nytimes.com/2012/12/17/us/lanza-used-a-popular-ar-15-style-rifle-in-newtown.html?pagewanted=all>.

²⁹ Steven Almasy, *Newton Shooter’s Guns: What We Know*, CNN (Dec. 19, 2012, 10:11 AM), <http://www.cnn.com/2012/12/18/us/connecticut-landa-guns/index.html>.

feature are also crucial considerations. This approach makes complete sense. The common use and possession of a given firearm feature is, at best, just one helpful indicator of whether restricting that feature will stymie or frustrate the exercise of the core Second Amendment protection of lawful self-defense to a constitutionally cognizable degree. For instance, in the case of high-capacity magazines, significant market presence does not necessarily translate into heavy reliance by American gun owners on those magazines for self-defense. Analysis of the modern development of the U.S. gun market demonstrates that the firearms industry, driven by an obvious profit motive, ushered in a revolution in the state of the market during the 1980s. Manufacturers began to roll out increasing numbers of pistols with ever-larger-capacity magazines rather than revolvers, which take just six rounds of ammunition and had traditionally been the most popular firearm for personal self-defense.³⁰ The frequent purchase of such large-capacity magazines, then, may not be attributable purely or even primarily to actual gun-owner preferences, much less to gun-owner needs. Rather, guns equipped with or ready for large-capacity magazines may simply be the weapons most readily made available on the market. And even if this market presence begins to influence more Americans to purchase firearms with high-capacity magazines because they fear attacks from criminals possessing guns outfitted with the same high-capacity magazines, nothing in *Heller* suggests that it is improper for the government to halt the escalation of this arms race in its tracks. The one-way ratchet of ever more powerful firearms is not a constitutional inevitability. For unlike the doctrine of mutually assured destruction that some say maintained an uneasy peace during the nuclear arms buildup of the

³⁰ See DC Reedy & CS Koper, *Impact of handgun types on gun assault outcomes: a comparison of gun assaults involving semiautomatic pistols and revolvers*, 9 INJURY PREVENTION 151, 151 (2002), available at <http://injuryprevention.bmj.com/content/9/2/151.full#aff-1>.
VIOLENCE POLICY CENTER, BACKGROUND ON GLOCK 19 PISTOL AND AMMUNITION MAGAZINES USED IN ATTACK ON REPRESENTATIVE GABRIELLE GIFFORDS AND OTHERS 1 (2011), available at www.vpc.org/fact_sht/AZbackgrounder.pdf.

Cold War, the propagation of increasingly dangerous guns on American streets has already taken an all-too-violent toll. In other words, tempering the trend toward more dangerous weapons actually *vindicates* the core Second Amendment right of self-defense and personal safety that *Heller* recognizes. In this context, as in many others, less is more.

But even looking beyond the market saturation of large-capacity magazines, this feature runs headlong into the other threshold obstacles that *Heller* requires Second Amendment claims to clear. As experts in effective firearms regulation have preached for years and particularly fervently in recent weeks, higher-capacity magazines pose greater dangers to public safety. By permitting shooters using semi-automatic weapons to continue firing more bullets without interruption, these magazines increase the potential lethality of armed killers.³¹ Though well-trained gun users can change magazines quickly, this interruption may, as we saw last year in the Arizona shooting of Rep. Gabby Giffords, afford time for heroic men or women to intervene and disarm the shooter.³² Moreover, this interruption gives our police a chance to return fire.³³ And it may even provide time for reflection and rethinking before murder becomes massacre.

³¹ BRADY CAMPAIGN TO PREVENT GUN VIOLENCE, ASSAULT-STYLE WEAPONS: HIGH-CAPACITY MAGAZINES, <http://www.bradycampaign.org/legislation/msassaultweapons/highcapacity> (last visited Feb. 2, 2013).

³² Ken Dolak & Justin Wealer, *Woman Wrestled Fresh Ammo Clip From Tucson Shooter as He Tried to Reload*, ABC NEWS (Jan. 9, 2011), <http://abcnews.go.com/Politics/patricia-maisch-describes-stopping-gunman-reloading/story?id=12577933>.

³³ I believe I can speak for many Americans when I thank Baltimore County Police Chief Jim Johnson for the illuminating insights he has publicly offered on the threats of high-capacity weapons not just to public safety in general but also law enforcement officer safety more specifically. See, e.g., John Quinones, *Baltimore Police Chief Wants to Ban High-Capacity Firepower*, ABC NEWS (Dec. 20, 2012), <http://abcnews.go.com/US/baltimore-police-chief-ban-high-capacity-firepower/story?id=18030163>

Against the evident dangerousness of high-capacity magazines as a design feature, we must evaluate the strength and plausibility of asserted self-defense interests. Critics of recent proposals to reestablish a limit on high-capacity magazines have argued that firing more than ten rounds without changing a magazine is necessary for effective self-defense. While I have no doubt that subscription to this perspective among some law-abiding gun owners is sincere, I doubt that it is well-founded. It's rhetorically effective to ask, "How many bullets do *you* want in your magazine when an intruder breaks into your home?" But the answer tells us little that is of relevance to the Second Amendment as *Heller* conceives that provision. I might want a magazine with twice as many bullets as any possible home intruder; I might want a machine gun too. But in the end that can't be the measure of what the Second Amendment says I have a *right* to own and deploy.

Despite the emotional resonance of this kind of appeal, incidents like burglaries and home invasions – even when they lead to the exchange of fire – are unlikely to *require* firing many shots. The NRA publishes a regular column featuring newspaper clippings of gun owners protecting themselves against intruder attacks, and an analysis of these reports over a five-year period demonstrated that in 50% of all cases, two or fewer shots were fired, and the average number of shots fired across the entire data sample was also about two.³⁴ Of course, this data comes from the episodes the NRA chooses to report, so selection bias is possible, meaning the

³⁴ Claude Verner performed the analysis of reporting over the period 1997 to 2001. The findings further show that when many shots were fired, a (presumably frightened) gun owner finished an entire magazine rather than firing the number of shots that necessarily had to be fired in light of the scenario. The analysis can be found reprinted with the author's permission at *Analysis of Five Years of Armed Encounters (With Data Tables)*, GunsSaveLives.net (March 12, 2012), <http://gunssavelives.net/self-defense/analysis-of-five-years-of-armed-encounters-with-data-tables/>.

average number of shots fired per incident could be even lower.³⁵ Even police officers traditionally found revolvers with six-bullet magazines sufficient for their own safety until more dangerous guns flooded the market.³⁶ And we should not lose track of the bigger picture: studies show that self-defense in the home with firearms is rare.³⁷ Additionally, firearms accidents are all too common: between 1965 and 2000, unintentional shootings accounted for the deaths of over 60,000 Americans.³⁸ Firing more bullets quickly may compound their damage.

Another version of the critics' response is that in scary situations, like home invasions, gun owners may go through bullets too quickly in a fit of nervousness or panic.³⁹ That may be true, but it also aggravates the downside hazard in cases of error,⁴⁰ so it is not at all clear that increased access to large-capacity magazines for shooters subject to fragile nerves represents a

³⁵ It seems likely, for example, that merely brandishing a weapon may often lead intruders to flee. A non-exhaustive review of the NRA column reveals several examples of exactly this scenario, giving me the impression that the NRA's reporting is not demonstrably biased toward extreme scenarios or even those in which some shots are fired. *See, e.g.*, Armed Citizen, NRA (March 2012), <http://www.nrapublications.org/index.php/12492/armed-citizen-23/> (“[The resident] met the intruder at her bedroom door, pointed the gun at him and demanded he leave. The trespasser fled without hesitation.”).

³⁶ *See* Eugene Volokh, *Implementing the Right to Keep and Bear Arms for Self-Defense: An Analytical Framework and A Research Agenda*, 56 UCLA L. REV. 1443, 1489 (2009).

³⁷ A study of Atlanta police records, for example, found that victims of burglaries used guns in self-defense just 3% of the time. For a description of the study and a rich discussion of self-defense uses for firearms, see DAVID HEMENWAY, *PRIVATE GUNS, PUBLIC HEALTH* 67 (2004). The study is A.L. Kellermann et al., *Weapon involvement in home invasion crises*, 273 J. OF THE AM. MED. ASSOC. 1759 (1995).

³⁸ HEMENWAY, *supra* note 38, at 27 – 35.

³⁹ *See, e.g.*, *Heller v. Dist. of Columbia*, 670 F.3d 1244, 1261 (D.C. Cir. 2011); Emily Miller, *The High Capacity Magazine Myth*, WASHINGTON TIMES (Jan. 27, 2013), <http://www.washingtontimes.com/news/2013/jan/27/the-high-capacity-magazine-myth/>; Jacob Sullum, *The Threat Posed by Gun Magazine Limits*, REASON (Jan. 16, 2013), <http://reason.com/archives/2013/01/16/the-threat-posed-by-gun-magazine-limits>.

⁴⁰ *Heller*, 670 F.3d at 1263 - 64 (“[T]he tendency is for defenders to keep firing until all bullets have been expended, which poses grave risks to others in the household, passersby, and bystanders.” (internal quotations omitted)).

net gain for home security or public safety. Finally, some critics of magazine-capacity limits have pointed out that, realistically, many gun owners have not received proper training and for that reason, may fire bullets indiscriminately; a larger magazine – so the thinking presumably goes – will increase the chances that at least one of their wayward shots will hit its mark.⁴¹ As the Supreme Court recognized in *Heller*, however, the Second Amendment protects only the right of “*responsible* citizens to use arms in defense of hearth and home.”⁴² In other words, a dangerous firearms feature otherwise outside the Second Amendment’s scope cannot become subject to heightened constitutional scrutiny because of the shortcomings of *irresponsible* gun owners.

To be sure, *some* gun owners may struggle to change magazines quickly not for lack of adequate training but rather by reason of disability or old age.⁴³ Perhaps a ban on high-capacity magazines without any exception for the disabled or elderly might, for this reason, trigger heightened scrutiny of such a ban as applied specifically to those individuals. But the possibility that a prohibition could raise constitutional questions in some subset of its applications does not mean that the prohibition is constitutionally vulnerable on its face.⁴⁴ And it remains the case that

⁴¹ See, e.g., Stephen Hunder, *Why 33 rounds makes sense in a defensive weapon*, WASHINGTON POST (Feb. 6, 2011),

<http://www.washingtonpost.com/wp-dyn/content/article/2011/02/04/AR2011020407083.html>

⁴² *Dist. of Columbia v. Heller*, 554 U.S. 570, 635 (2008) (emphasis added).

⁴³ Yih Chau-Chang, *High-Capacity Magazines And Their Critical Role In Lawful Self-Defense*, THE EXAMINER (March 10, 2011), <http://www.examiner.com/article/high-capacity-magazines-and-their-critical-role-lawful-self-defense>

⁴⁴ The Supreme Court has exhibited an extreme reluctance to strike down laws on their face – meaning in all applications – when only some applications would fall afoul of a constitutional provision (with the exception of the First Amendment, as facially overbroad laws may chill protected free speech). See RICHARD H. FALLON, DANIEL J. MELTZER & DAVID L. SHAPIRO, HART AND WECHSLER’S THE FEDERAL COURTS AND THE FEDERAL SYSTEM 162, 168 (6th ed. 2009).

large-capacity magazines are highly unlikely to be necessary to self-defense in the vast majority of home invasions or burglaries, even those that resort to the exchange of fire. The facial validity of a high-capacity magazine ban is therefore clear.

Despite the considerable market presence of high-capacity magazines, the danger they pose to public safety and the weakness of the self-defense justification for their possession means that two of the three threshold *Heller* factors point strongly against extending Second Amendment protection to high-capacity magazines. The D.C. Circuit Court of Appeals, in a case challenging Washington D.C.'s restriction on magazines with more than ten rounds, recently struggled with this first stage of analysis and determined that the court did not have before it sufficient evidence to decide whether the Second Amendment even *reached* large-capacity magazines.⁴⁵ However, the court went on to conclude that, even if it was proper to extend coverage of the amendment to large-capacity magazines, the government's interest in banning them was strong enough to do so without violating Second Amendment rights.⁴⁶

Having now reviewed the best evidence and argumentation advanced by defenders of high-capacity magazine possession, I doubt that the Supreme Court would find it necessary to reach that second stage of review in dealing with a ban on high-capacity magazines and am quite confident that, in any event, the Court would agree with the ultimate conclusion that, even if the amendment applies, a ban on high-capacity magazines withstands Second Amendment scrutiny.

⁴⁵ *Heller*, 670 F.3d at 1261.

⁴⁶ *Id.* at 1263 – 64.

In explaining that conclusion, I emphasize that commonly advanced rejections of a legitimate government interest in banning high-capacity magazines are deeply misleading. Many opponents of reasonable firearms regulation insist that we tried banning large-capacity magazines in 1994: the results are in, they say, and we failed. One favorite trope is to cite to a 1997 Department of Justice study, which, according to the recent testimony of Wayne LaPierre, “proved that [the] ban had no impact on lowering crime.”⁴⁷ But no one is even *arguing* that a ban on high-capacity magazines (or on assault weapons, for that matter) will necessarily decrease crime rates; highly lethal firearms will still be widely available on the market, and some criminals will use them, just as they do now.

What defenders of a ban on high-capacity magazines *do* argue is that such a ban will help prevent these criminals from killing or maiming as many people when they commit violent crimes. And that argument is solidly grounded. One study, for example, found that between 1984 and 1993, criminals using guns with high-capacity magazines or assault weapons as defined by the 1994 Assault Weapons Ban killed or injured an average of 29 victims, compared to the average 13 victims shot by criminals unequipped with large-capacity magazines.⁴⁸ Another study suggests that, since the lapse of the ban in 2004, high-capacity magazines have once again

⁴⁷ See, e.g., *What Should America Do About Gun Violence?: Hearing Before the S. Judiciary Comm.*, 113th Cong. (2013) (prepared testimony of Wayne LaPierre, Executive Vice President and Chief Executive Officer of the National Rifle Association).

⁴⁸ This study considered all “mass shooting” incidents: those in which six or more were killed or twelve or more were wounded. For an explanation of this study, see Christopher S. Koper, *America’s Experience with the Federal Assault Weapons Ban*, in REDUCING GUN VIOLENCE IN AMERICA 167 (Daniel W. Webster & Jon S. Vernick, eds., 2013). The study is Christopher S. Koper & Jeffrey A. Roth, *The Impact of the 1994 Federal Assault Weapon Ban on Gun Violence Outcomes: An Assessment of Multiple Outcome Measures and Some Lessons for Policy Evaluation*, 17 J. OF QUANTITATIVE CRIMINOLOGY 33 (2001).

become common in episodes of violent crime after the beginnings of a decline, which probably took place because the black market for these magazines had begun to dry up.⁴⁹

Even more misleading is the suggestion that in 1997 we could (or even today that we can) draw meaningful conclusions from the absence of unmistakable evidence of a decrease in violence following the 1994 ban. That legislation grandfathered or exempted many thousands of weapons already owned, and those could still be sold or transferred.⁵⁰ In other words, the 1994 ban was crafted with long-term effects in mind; to measure its effects notwithstanding its untimely end is to misunderstand fundamentally how the legislation was designed to work. It is therefore all the more telling that supporters of reasonable regulation can cite studies based upon identifiable trends emerging during the latter years of the ban, as well as evidence from both before and after the ban, showing that the legal availability of large-capacity magazines is indeed correlated with increased deaths and injuries caused by gun violence. Considered alongside the dangerousness inherent in a large-capacity magazine as a design feature, this evidence provides the government with a sufficient basis to satisfy the Second Amendment under any plausible understanding of the Supreme Court's jurisprudence surrounding that amendment.

⁴⁹ See David S. Fallis and James V. Grimaldi, *Va. data show drop in criminal firepower during assault gun ban*, WASH. POST (Jan. 23, 2011), <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012203452.html> (finding that in Richmond, Virginia, the percentage of guns with high-capacity magazines seized from criminals by police fell to a low of 10% by 2004, when the federal assault weapons ban expired, but has since rebounded to 22%).

⁵⁰ Koper, REDUCING GUN VIOLENCE IN AMERICA, *supra* note 49, at 165 – 66.

Assault Weapons Ban

By many accounts, the most important component of the newly proposed assault weapons ban is its prohibition on high-capacity magazines.⁵¹ But that does not mean that the remaining features of the proposal stand on weaker constitutional ground. Far from it. Application of *Heller*'s three threshold factors – dangerousness, commonness of use, and connection to core self-defense interests – demonstrates that the Second Amendment does not provide legal shelter to the features that trigger a firearm's prohibition under the ban.

Opponents of the legislation as well as some proponents of new firearms regulation have observed that some of the “military characteristics” that can lead to prohibition under the legislation⁵² (and, by some accounts, under assault weapons bans in general⁵³) are mostly cosmetic traits designed to make a gun *appear* dangerous and are not, in fact, intrinsically hazardous. But Congress would surely be acting within its constitutional authority if it were to reject this characterization as self-serving or otherwise unreliable. For example, the Brady Campaign to Prevent Gun Violence insists that “[p]istol grips . . . help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position [and that] [b]arrel

⁵¹ Tom Diaz, a researcher for the Violence Policy Center, has repeatedly called on lawmakers to focus their attention on a high-capacity magazine ban. *E.g.*, Tom Diaz, *Ten Ways to Spot a Sell-Out on Gun Control*, FAIRLY CIVIL (Jan. 14, 2013, 2:26 PM),

<http://tomdiazgunsandgangs.com/2013/01/14/ten-ways-to-spot-a-sell-out-on-gun-control/> (“An effective law will focus on one prime feature—the ability to accept a high-capacity magazine.”).

⁵² *See, e.g., What Should America Do About Gun Violence?: Hearing Before the S. Judiciary Comm.*, 113th Cong. (2013) (statement by Sen. Ted Cruz) (“Now, what the assault weapons ban instead targets are cosmetic features.”).

⁵³ *See, e.g.,* Nicholas J. Johnson, *Supply Restrictions at the Margins of Heller and the Abortion Analogue: Stenberg Principles, Assault Weapons, and the Attitudinalist Critique*, 60 HASTINGS L.J. 1285, 1295 (2009).

shrouds on assault pistols protect the shooter's hands from the heat generated by firing many rounds in rapid succession.”⁵⁴ Moreover, even if the characterization of these features as cosmetic were accurate, it would make little difference as a constitutional matter. In a recent televised interview, Justice Scalia explained the basis in history for exempting certain types of regulations from Second Amendment review. Certain limitations on gun ownership are constitutionally permissible, he contended, “because there were some [regulations] that were acknowledged at the time [of the Founding]. For example, there was a tort called affrighting . . . if you carried around a really horrible weapon just to scare people, like a head ax or something. . . .”⁵⁵ What the Justice evidently meant was that regulating weapons because they are chosen specifically for their intimidating appearance is constitutionally unproblematic because the very use of intimidation is unnecessarily disruptive to organized society.⁵⁶

Even more important to the constitutionality of the assault weapons ban is the absence of any connection to the core Second Amendment right to defend oneself with a firearm. At this committee’s hearing on January 30, several witnesses criticized the assault weapons ban on policy grounds, but in my role as a constitutional lawyer listening intently for arguments relevant to the proposal’s Second Amendment propriety, I was struck by the failure of anyone’s

⁵⁴ Brady Campaign to Prevent Gun Violence, The Top 10 NRA Myths About Assault Weapons, <http://www.bradiycampaign.org/issues/assaultweapons/nramyths/>.

⁵⁵ Interview with Justice Antonin Scalia by Chris Wallace, FOX NEWS SUNDAY (July 29, 2012), transcript available at <http://www.foxnews.com/on-air/fox-news-sunday/2012/07/29/justice-antonin-scalia-issues-facing-scotus-and-country#p/v/1760654457001>.

⁵⁶ Justice Scalia’s point about the tort of affrighting surfaces in the *Heller* decision itself: the majority opinion cited three illustrative examples of state courts entertaining such actions in the nineteenth century. See *Dist. of Columbia v. Heller*, 554 U.S. 570, 627 (2008) (citing, e.g., *State v. Lanier*, 71 N.C. 288, 289 (1874) (“The elementary writers say that the offence of going armed with dangerous or unusual weapons is a crime against the public peace by terrifying the good people of the land, and this Court has declared the same. . . .”)).

testimony to support these features as essential to self-defense. In fact, I have searched in vain for any reasoned arguments that pistol grips, forward grips, telescoping stocks, grenade or rocket launchers, and barrel shrouds are indispensable or even contribute to self-defense.

Finally, it is relevant to ask how many assault weapons Americans currently own. Data is hard to come by in large part because firearms manufacturers refuse to release data tracking their sales.⁵⁷ What we do know is that the number of weapons that would qualify under either the proposed ban's so-called "characteristics test" or its explicit list of banned models is smaller than the number of guns with standard-issue high-capacity magazines.⁵⁸ One reporter's painstaking analysis estimated that there are 3.75 million AR-15-style rifles owned in the U.S. today, and AR-15s are the most popular although not the exclusive type of qualifying assault weapon.⁵⁹ The NRA's lobbying arm estimates that, depending upon the definition of assault weapon, assault weapons represent 15% of all semi-automatic guns owned in the U.S., which in turn represent about 15% of all firearms owned in the U.S.⁶⁰ Given that the Congressional Research Service recently found that, as of 2009, Americans own about 310 million guns,⁶¹ the NRA's estimate would translate into approximately 7 million assault weapons owned today. Although 7 million is hardly a negligible figure, it still corresponds to quite a small portion of the

⁵⁷ Justin Peters, *How Many Assault Weapons Are There in America? How Much Would It Cost the Government To Buy Them Back?*, SLATE (Dec. 20, 2012), http://www.slate.com/blogs/crime/2012/12/20/assault_rifle_stats_how_many_assault_rifles_are_there_in_america.html.

⁵⁸ See Koper, REDUCING GUN VIOLENCE IN AMERICA, *supra* note 49, at 161 (explaining that the universe of large-capacity magazine equipped firearms is broader than the universe of weapons satisfying the criteria for categorization as an assault weapon).

⁵⁹ Peters, *supra* note 58.

⁶⁰ *Top Ten Frequently Asked Questions*, NRA-ILA, <http://www.gunbanfacts.com/FAQ.aspx> (last visited February 2, 2013).

⁶¹ WILLIAM J. KROUSE, CONG. RES. SERV., RL32842, GUN CONTROL LEGISLATION 8 (2012).

overall gun market – hardly enough to justify calling such weapons “common” within the meaning of *Heller*.

But for the purposes of constitutional analysis, debating how to characterize the significance of assault weapons’ market presence would be a waste of time. To make a difference to *Heller*’s threshold inquiry, which must take notice of the complete lack of any connection of assault-weapon features to self-defense as well as these features’ dangerousness in both fact and appearance, the market presence of assault weapons would have to be overwhelmingly large (and even then, I doubt seriously the bottom line would change as a constitutional matter). And overwhelmingly large it assuredly is not.

Universal Registration and Background Checks

All responsible participants in the gun safety debate agree that some groups of people simply should not be allowed to own, keep, or carry guns. Those groups include children, dangerous felons, and those with serious mental illnesses that preclude safe gun ownership. When some observers casually compare the Second Amendment to the First, they forget this essential difference: Although freedom of speech sometimes comes at a price, and although speech can at times pose dangers, our constitutional system addresses those dangers by permitting government to impose carefully crafted limits on speech, not by limiting or licensing eligible speakers. The Constitution’s strategy with respect to guns is entirely different. It addresses the dangers of guns in the wrong hands by permitting government to keep them out of

those hands in the first place, and, of course, by permitting government to regulate where and under what conditions people can bear those weapons in possible confrontation with others.

Accordingly, this Congress might be called upon to consider measures designed to minimize the risk that guns fall into the hands of such prohibited purchasers and owners. Measures dealing with straw purchases and trafficking are obviously important in that effort and are clearly constitutional. Rather than spending the committee's time on those measures, I will focus here on provisions that mandate universal registration requirements or a universal background check, closing the many notorious loopholes that characterize current laws on the subject. There is no serious doubt that requiring universal registration or a universal background check would comply with the Second Amendment.

It is important to recognize, at the outset, that prohibiting particular groups of people from owning or possessing guns is fully compatible with the Second Amendment. In the first place, such prohibitions are consistent with the original and traditional understanding of the Second Amendment. It was widely accepted at the time of the framing that not every person had a right to keep and bear arms; instead, the right was closely tied to the notion of responsible citizenship, and it has long been denied to criminals and others whose possession of guns would pose a severe danger to the public.⁶² On this point, precedent aligns closely with history. The Supreme Court said in *District of Columbia v. Heller*: “[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the

⁶² See *United States v. Rene E.*, 583 F.3d 8, 15–16 (1st Cir. 2009).

mentally ill ...”⁶³ The Court fortified this conclusion in *McDonald v. City of Chicago*, when it added: “We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as ‘prohibitions on the possession of firearms by felons and the mentally ill’ ... We repeat those assurances here.”⁶⁴

Once the constitutionality of prohibiting gun possession by some people is accepted, the constitutionality of a reasonable system of registration or background checks follows automatically. The most powerful argument for this inference is not a technical legal point; it is, instead, common sense. And, although it shouldn’t be necessary to cite authority for the point, it’s worth noting that as eminent an authority as Alexander Hamilton wrote in *The Federalist* that “[t]he rules of legal interpretation are rules of *common sense*,” and that the “true test” of a “just application” of these rules is whether the resulting interpretation is “consistent with reason and common sense.”⁶⁵

Consider, then, whether the Constitution would be “consistent with reason and common sense” if it allowed prohibitions on firearms purchases by felons but disallowed background checks to determine whether a felon was the would-be purchaser of a firearm. As a matter of common sense, we all know that guns do not of their own accord stay out of the hands of prohibited purchasers. Nor are prohibited purchasers likely to confess their legal inability to buy guns when talking to gun dealers. The prohibitions, in short, do not enforce themselves. In order to be effective, in order to be meaningful, in order to be anything more than rules on paper, they

⁶³ 554 U.S. 570, 626 (2008).

⁶⁴ 130 S. Ct. 3020, 3047 (2010) (plurality opinion).

⁶⁵ *The Federalist* No. 83, at 495 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

must be comprehensive and must be carried into operation by the government. It contradicts common sense—it ignores the fact that “the framers of the Constitution were not mere visionaries, toying with speculations or theories, but practical men”⁶⁶—to say on the one hand that prohibiting felons from owning guns is constitutional, but to insist on the other hand that the background checks that seek to make those prohibitions effective are unconstitutional.

The Supreme Court’s decisions in *District of Columbia v. Heller* and *McDonald v. City of Chicago* confirm the constitutionality of reasonable background check requirements. *Heller* expressly affirms that the Court was not calling into doubt “laws imposing conditions and qualifications on the commercial sale of arms.”⁶⁷ The *McDonald* Court “repeat[ed] those assurances,” observing that its holding “does not imperil every law regulating firearms.”⁶⁸ The universal registration requirement or background check is simply a “condition[]” on the transfer of arms; it is therefore expressly within the zone of permissible regulation identified by *Heller* and *McDonald*.

Analogous Supreme Court doctrine points in the same direction. The right to vote, like the right to keep and bear arms, is a fundamental right of Americans.⁶⁹ But no serious legal scholar doubts that before letting a citizen cast his ballot, the government may require the citizen to register and may take steps to check whether he or she really is an eligible voter. And the

⁶⁶ *NFIB v. Sebelius*, 132 S. Ct. 2566, 2589 (2012) (opinion of Roberts, C.J.) (quoting *South Carolina v. United States*, 199 U.S. 437, 449 (1905)).

⁶⁷ 554 U.S. at 626–27.

⁶⁸ 130 S. Ct. at 3047 (plurality opinion).

⁶⁹ Compare *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966) (holding that the right to vote is fundamental), with *McDonald v. City of Chicago*, 130 S. Ct. 2020 (2010) (holding that the right to keep and bear arms is fundamental).

Supreme Court agrees; in *Crawford v. Marion County Election Board*, for example, it concluded that Indiana’s voter ID law was a permissible means of ensuring that only eligible voters participate in an election.⁷⁰ Checking whether a voter is eligible before giving that voter a ballot is comparable to checking whether a purchaser is eligible before letting her acquire a gun. Just as the former is constitutional, so is the latter. And the argument is of course even stronger in the instance of firearms. For, unlike a ballot in the hands of an ineligible voter, which might in the end prove to make no difference to who wins or loses the election at issue, a gun in the hands of even one ineligible owner poses a deadly danger all by itself.

History reinforces common sense and case law in this regard. The Supreme Court in *Heller* and *McDonald* stressed the role of history in interpreting the scope of the Second Amendment; “longstanding” prohibitions upon gun ownership, the Court indicated, are presumptively exempt from Second Amendment scrutiny.⁷¹ Lower courts have likewise noted that history plays an important, though not exclusive, role in determining the scope of permissible regulation under the Second Amendment.⁷² Measures to keep guns out of the hands of prohibited owners – owners who could not safely be entrusted with control of a lethal weapon – have a strong historical pedigree. For example, many states have longstanding laws—sometimes, laws dating back a century or more—requiring sellers to keep registers of all firearm purchasers; the registers had to be open to peace officers.⁷³ The government could use thus use

⁷⁰ 553 U.S. 181 (2008) (plurality opinion).

⁷¹ See 554 U.S. at 626–27; 130 S. Ct. at 3047 (plurality opinion).

⁷² See, e.g., *Heller v. District of Columbia*, 670 F.3d 1244, 1253 (D.C. Cir. 2011); *Ezell v. City of Chicago*, 651 F.3d 684, 701–04 (7th Cir. 2011); *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010); *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010); *United States v. Reese*, 627 F.3d 792, 800–01 (10th Cir. 2010).

⁷³ See *Heller*, 670 F.3d at 1253–54.

these registers to determine whether any of the purchasers had obtained weapons in violation of the law.

To be sure, modern computerized background checks differ from the more cumbersome historical enforcement measures known to history. But “a constitution [is] intended to endure for ages to come.”⁷⁴ Just as the Second Amendment covers modern weapons, like handguns, that did not exist when the Bill of Rights was ratified in 1791, so too does it cover modern enforcement measures, like mandatory computerized background checks, that could not have been anticipated in 1791. Reasonable background checks fit into the long historical tradition to which registration requirements belong, and that is enough to sustain them without further ado under the tests established by the Supreme Court in *Heller* and *McDonald*.

In short, all relevant legal considerations—logic and common sense, directly applicable precedent, analogies to surrounding legal doctrines, and history and tradition—point to the same conclusion. The Second Amendment does not prohibit Congress from passing laws to carry into effect concededly constitutional prohibitions on firearm purchases. The universal background check, in particular, easily passes constitutional muster as a permissible regulation of the transfer of firearms.

This is not to say that all conceivable background check systems would comport with the Constitution. Suppose, for example, that Congress were to pass a law requiring handgun purchasers to undergo an extensive check on the purchasers themselves and all their family

⁷⁴ *McCulloch v. Maryland*, 17 U.S. 316, 415 (1819).

members and housemates, a check that took years to complete. Such a scheme would plainly impose a very severe burden on the right to keep and bear arms for self-defense. The burden would be entirely disproportionate to the objective the government is seeking to pursue. Where a background check is taken to such lengths that it effectively destroys the right to keep and bear arms, rather than ensuring that the right is enjoyed only by those constitutionally entitled to it, the government has overstepped the lawful boundaries of its power.

Such concerns are entirely out of place here, however. Whether a particular background check scheme that Congress adopts would go too far obviously depends on the specific details of that scheme. But none of the proposals seriously under consideration at the present come remotely close to overstepping constitutional boundaries. The proposed background check frameworks, especially those that rely on checks conducted instantaneously through the National Instant Background Check System, impose a constitutionally insignificant burden upon law-abiding citizens. Indeed, an instant background check is much *less* onerous than the Voter ID law that the Supreme Court upheld in *Crawford v. Marion County Election Board*; it is also much less cumbersome than longstanding registration requirements and other conditions on sale⁷⁵ that are concededly constitutional. Ultimately, therefore, I see no merit to the constitutional objections to the background check proposals presently being seriously considered by Congress.

III. The Consistency of the President's Measures with the Separation of Powers

⁷⁵ See *Heller*, 670 F.3d at 1253.

This January, President Obama announced twenty-three steps that his Administration would take to prevent gun violence.⁷⁶ The President has begun to implement these steps by using the executive powers vested in him by the Constitution and laws of the United States. Because the President adopted these measures by executive action, without specific congressional involvement, some have concluded that the President violated the separation of powers established by the Constitution. This claim is legally untenable; the President is acting well within his powers as head of the executive branch.

Some of the President's measures involve nothing beyond communicating with members of the public. Measure 23, for example, is to "[l]aunch a national dialogue ... on mental health." There is plainly no constitutional problem with executive steps of this sort. The President obviously does not need congressional permission every time he decides to give a speech or publish a press release.

Another category of measures—and this covers the great majority of the actions that the President has committed to take—includes steps that will improve the enforcement of federal laws already on the books. Thus, the President has agreed to "[m]aximize enforcement efforts to prevent gun violence and prosecute gun crime."⁷⁷ He has likewise decided "to require federal law enforcement to trace guns recovered in criminal investigations."⁷⁸ These improvements to

⁷⁶ See, e.g., Colleen Curtis, *President Obama Announces New Measures to Prevent Gun Violence*, Jan. 16, 2013, available at <http://www.whitehouse.gov/blog/2013/01/16/president-obama-announces-new-measures-prevent-gun-violence>.

⁷⁷ Measure 13.

⁷⁸ Measure 9.

federal law enforcement efforts plainly fall within the President’s constitutional power—and constitutional responsibility—to “take Care that the Laws be faithfully executed.”⁷⁹

A third group of measures involves the making of rules and regulations under preexisting congressionally granted authority. For instance, step 21—“[f]inalize regulations clarifying essential health benefits and parity requirements within ACA exchanges”—simply carries into effect authority granted by the Patient Protection and Affordable Care Act.⁸⁰

Step 11, “[n]ominate an ATF director,” is equally clearly within the President’s constitutional powers; the Constitution expressly states that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint ... Officers of the United States.”⁸¹ Likewise, the Constitution plainly authorizes the President’s requests for information from executive branch officials, such as step 15, “direct[ing] the Attorney General to issue a report on the availability and most effective use of new gun safety technologies and challenge the private sector to develop innovative technologies”; Article II provides that the President “may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices.”⁸²

Finally, and perhaps most controversially, some of the President’s measures entail the issuance of interpretations of existing laws. To this class belongs, for instance, step 16, “[c]larify[ing] that the Affordable Care Act does not prohibit doctors asking their patients about

⁷⁹ U.S. Const. art. II, § 3.

⁸⁰ Patient Protection and Affordable Care Act of 2010, Pub. L. 111-148, § 1321(a).

⁸¹ U.S. Const. art. II, § 2, cl. 2.

⁸² U.S. Const. art. II, § 2, cl. 1.

guns in their homes.” To be sure, the Article III judiciary must ultimately interpret laws when applying those laws in the context of concrete cases or controversies. But it is well established that the President also has the authority to interpret the law—and especially the power to announce legal interpretations concerning issues that have not yet been settled by the courts. In fact, the tradition of presidential clarifications of the law goes back to President George Washington’s Neutrality Proclamation. The tradition also has a solid grounding in the text of the Constitution; it is based on the Constitution’s vesting in the President of “the executive Power,” and in its imposition on the President of the power and duty to “take Care that the Laws be faithfully executed.”⁸³

In sum, although some opponents of gun regulation might disagree with some of the President’s executive actions as a matter of policy, those disagreements cannot plausibly be translated into constitutional objections. From a separation-of-powers perspective, the President has acted well within the bounds of his constitutionally assigned authority.

In closing, I note that I share the beliefs of many that the prevalence of guns in our country is by no means the only significant contributor to the tragedy at Newtown and to the many other gun-related massacres we have seen in recent months and recent years, or to the deaths of an average of over 30 Americans, nearly 5 of them children, *each and every day* as a result of gunfire homicides in less visible, and often virtually unnoticed, tragic incidents.⁸⁴

⁸³ U.S. Const. art. II, §§ 1, 3.

⁸⁴ The Center for Disease Control reports that in 2010, 11,078 individuals in the U.S. died from firearm-related homicides. 1,773 of them were between the ages of 0 and 19. *See* CENTER FOR DISEASE CONTROL, NATIONAL CENTER FOR INJURY PREVENTION & CONTROL, *WISQARS*

Violence has many causes. Violent video games, for example, some of them simulating mass shootings, may well play a significant role in the inculcation of violent attitudes among children.⁸⁵ And mental illness plainly played a significant part in bringing about the massacre at Newtown. If our country is to reduce the incidence of similar unspeakable violence in the future, the widespread availability of high-powered guns to people who should not possess them and who have no constitutional right to do so is by no means the only phenomenon that our government, our society, and our families need to address.

But it is simply not true that the presence of other causes of gun violence means that we neither can nor should do anything significant about the prevalence, too often in the wrong hands, of high-powered guns and high-capacity magazines that turn those guns from means of self-defense into weapons of mass destruction. It is not true constitutionally, it is not true politically, and it is not true morally. We must do our best to address in a serious way *every* source of avoidable death by firearms that we can, and if we always point to other problems still waiting to be solved we will never get started.

The time to get started on sensible gun regulation is not now—it was weeks, months, years, even decades ago. The Second Amendment is not a barrier. We have already delayed too long, and our society has paid a terrible price. We should delay no longer.

Fatal Injury Reports, National and Regional, 1999 – 2010,

http://webappa.cdc.gov/sasweb/ncipc/mortrate10_us.html (last visited Feb. 4, 2013).

⁸⁵ See *Brown v. Entertainment Merchants Ass’n*, 131 S. Ct. 2729, 2767–71 (2011) (Breyer, J., dissenting).

Not for use in litigation, U.S. Marshals Service, 10/10/2018

Case	Location	Date	Year	Summary	Fatalities	Injured	Total victims	Veru e	Prior signs of mental health	Mental health details	Weapons obtained legally	Where obtained	Type of weapons	Weapon details	Race	Gender	Sources	Mental Health Sources	latitude	longitude	Type
Yountville veterans home shooting	Yountville, CA	3/9/18	2018	Army veteran Albert Cheung Wong, 36, stormed a veterans home where he was receiving medical care, exchanging gunfire with a sheriff's deputy and taking three women hostage, one of whom he'd previously threatened. After a standoff with law enforcement, he killed the three women and himself.	3	0	3	Wor kplace	Yes	Wong had a long history of domestic violence and PTSD.	Yes	TBD	semiautomatic rifle, shotgun	AR-15	Asian	M	https://www.foxnews.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html; https://www.nytimes.com/2018/02/11/0180211/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	38.392496	-122.366528	Mass
Stoneman Douglas High School shooting	Parkland, Florida	2/14/18	2018	Nikolas J. Cruz, 19, heavily armed with an AR-15, tactical gear, and "countless magazines" of ammo, according to the Broward County Sheriff, attacked the high school as classes were ending for the day, killing at least 17 people and injuring many others. He was apprehended by authorities shortly after fleeing the campus.	17	14	31	School	Yes	Cruz had a long history of behavioral problems and had spent time in mental health clinics.	Yes	A Florida pawn shop	semiautomatic rifle	AR-15	White	M	https://www.nytimes.com/2018/02/11/0180211/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	https://www.nytimes.com/2018/02/11/0180211/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html			Mass
Pennsylvania canvass shooting	Melcroft, PA	1/28/18	2018	Timothy O'Brien Smith, 28, wearing body armor and well-stocked with ammo, opened fire at a canvass early in the morning in this rural community, killing four people. A fifth victim, though not shot, suffered minor injuries. One of the deceased victims, 25-year-old Chelsie Cline, had been romantically involved with Smith and had broken off the relationship recently, according to her sister. Smith shot himself in the head and died later that night at the hospital.	4	1	5	Other	TBD		TBD	TBD	semiautomatic rifle and semiautomatic handgun		White	M	http://www.wpxi.com/news/top-stories/family-member-s-small-community-in-shock-https://www.nytimes.com/2018/01/21/0180121/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	https://www.nytimes.com/2018/01/21/0180121/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html			Mass
Rancho Tehama shooting spree	Rancho Tehama, CA	11/14/17	2017	Kevin Janson Neal, 44, went on an approximately 40-minute shooting spree in the rural community of Rancho Tehama Reserve in Northern California, including shooting up an elementary school, before being fatally shot by law enforcement officers. Neal had also killed his wife at home.	5	10	15	Other	TBD		No	TBD	semiautomatic rifles	Two illegally modified rifles	White	M	https://www.nytimes.com/2017/11/14/1114017/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	https://www.nytimes.com/2017/11/14/1114017/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html			Spree
Texas First Baptist Church massacre	Sulphur Springs, TX	11/5/17	2017	Devin Patrick Kelley, a 26-year-old ex-US Air Force airman, opened fire at the First Baptist Church in Sulphur Springs during Sunday morning services, killing at least 26 people and wounding and injuring 20 others. He left the church and fled in his vehicle after engaging in a gunfight with a local citizen; he soon crashed his vehicle and died from a self-inflicted gunshot wound.	26	20	46	Religious	Yes	Kelley had a history of domestic violence, including a court conviction for assault on his wife and child; he also had a history of mental health issues.	Kelley passed federal criminal background checks; the US Air Force failed to provide information on his criminal history to the FBI.	Purchased in April 2016 from an Academy Sports & Outdoors store in San Antonio	semiautomatic rifle	Ruger AR-556; Kelley also possessed semiautomatic handguns	White	M	https://www.nytimes.com/2017/11/05/1105017/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	https://www.nytimes.com/2017/11/05/1105017/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html	32.7801052	-96.8000082	Mass
Walmart shooting in suburban Denver	Thornton, CO	11/1/17	2017	Scott Allen Ostrom, 47, walked into a Walmart in a suburban Denver suburb and fatally shot two men and wounded two others. Ostrom, who had financial problems but no serious criminal history, was captured by police after being spotted near his apartment in Denver.	3	0	3	Other	Unclear		TBD	TBD	semiautomatic handgun		White	M	https://www.nytimes.com/2017/11/01/1101017/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	https://www.nytimes.com/2017/11/01/1101017/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html	43.0605671	-88.1064787	Mass
Edgewood business park shooting	Edgewood, MD	10/18/17	2017	Radee Labeab Prince, 37, fatally shot three people and wounded two others around 9am at Advance Granite Solutions, a home remodeling business where he worked near Baltimore. Hours later he shot and wounded a sixth person at a car dealership in Wilmington, Delaware. He was apprehended that evening following a manhunt by authorities.	3	3	6	Workplace	Unclear		No	Unclear	handgun	.380-caliber; make unclear	Black	M	http://www.nytimes.com/2017/10/18/1018018/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html; https://www.nytimes.com/2018/03/10/803/10/us/callor nia-veterans-home-shooting/index.html	http://www.nytimes.com/2017/10/18/1018018/4.us/park/5.us/niko land-cruz-las-cruzs-school-shooting.html			Mass

ER000957

Not for use in litigation, U.S. Marshals, 10/12/2018

Case	Location	Date	Year	Summary	Fatalities	Injured	Total victims	Veru e	Prior signs of mental health	Mental health - details	Weapons obtained legally	Where obtained	Type of weapons	Weapon details	Race	Gender	Sources	Mental Health Sources	latitude	longitude	Type
Cascade Mall shooting	Burlington, WA	9/23/2016	2016	Arcan Celin, 20, killed a teen girl and three women in the cosmetics section of a Macy's department store at the Cascade Mall. A man was critically wounded in the shooting and taken to Harborview Medical Center in Seattle, where he died. Celin was apprehended by police a few hours after the shooting while driving a car near his residence.	5	0	5	Other	Yes	According to the police, Celin had "mental health issues"; court records showed that he suffered from anxiety and depression.	TBD		Rifle			M	http://www.washingtontimes.com/story/news/us/2016/09/25/newsarc-160925-us-mall-an-celinshooting-accused-washingt-on-state.html	http://www.washingtontimes.com/story/news/us/2016/09/25/newsarc-160925-us-mall-an-celinshooting-accused-washingt-on-state.html	48.050824	-122.176918	Mass
Baton Rouge police shooting	Baton Rouge, LA	7/17/2016	2016	Gavin Long, a former Marine who served in Iraq, killed three police officers responding to a 911 call, and wounded three others. He was killed in a shootout with other officers responding to the scene. Prior to the attack, Long posted prolifically on social media, where he expressed admiration for the cop killer in Dallas 10 days prior.	3	3	6	Other	Yes	Unclear	Unknown		Two semiautomatic rifles; one Springfield XD 9.9mm	IMI Tavor SAR 5.56 caliber rifle, semiautomatic handgun	Black	M	http://m.e.com/4110271-baton-rouge-shooter-gavin-long-ww.com/wwtime.com/2016/07/11	http://m.e.com/4110271-baton-rouge-shooter-gavin-long-ww.com/wwtime.com/2016/07/11	41.4123225	-73.31142358	Spree
Dallas police shooting	Dallas, Texas	7/7/2016	2016	Micah Xavier Johnson, a 25-year-old Army veteran, targeted police at a peaceful Black Lives Matter protest, killing five officers and injuring nine others as well as two civilians. After a prolonged standoff in a downtown building, law enforcement killed Johnson using a robot-delivered bomb.	5	11	16	Other	Unclear	Unclear	Yes	online and or gun show	Semiautomatic rifle, c handguns	zhmash-Saiga semiautomatic 5.45mm (AK-style) semiautomatic rifle with large capacity magazines; Glock 9mm handgun, 25-caliber	Black	M	http://www.nytimes.com/2016/07/11/us/dallas-shooting-micah-johnson-police.html?_r=0	http://www.nytimes.com/2016/07/11/us/dallas-shooting-micah-johnson-police.html?_r=0	41.4123225	-73.31142358	Mass
Orlando nightclub massacre	Orlando, Florida	6/12/2016	2016	Omar Mateen, 29, attacked the Pulse nightclub in Orlando in the early morning hours of June 12. He was killed by law enforcement who raided the club after a prolonged standoff.	49	53	102	Other	Unclear	Unclear	Yes	Shooting center in Port St. Lucie, Florida	Semiautomatic rifle, c handgun	Sig Sauer MCX rifle, semiautomatic Glock 17 9mm; high-capacity magazines (30 rounds)	Other	M	http://www.nytimes.com/2016/06/12/us/politics/orlando-shooting-mateen.html	http://www.nytimes.com/2016/06/12/us/politics/orlando-shooting-mateen.html	37.8043808	-122.2708166	Mass
Excel Industries mass shooting	Hesston, Kansas	2/25/2016	2016	Cedric L. Ford, who worked as a painter at a manufacturing company, shot victims from his car and at his workplace before being killed by police at the scene. Shortly before the rampage he had been served with a restraining order.	3	14	17	Workplace	Unclear	Unclear	Yes		Semiautomatic rifle, c handgun	Zastava Serbia AK-47, semiautomatic Glock Model 22 .40-caliber handgun; high-capacity magazines (30 rounds)	Black	M	http://www.nytimes.com/2016/02/26/us/shooting-at-plant-hesston-kansas.html	http://www.nytimes.com/2016/02/26/us/shooting-at-plant-hesston-kansas.html	31.2011305	-97.77156996	Mass
Kalamazoo shooting spree	Kalamazoo County, Michigan	2/20/2016	2016	Jason B. Dalton, a driver for Uber, apparently selected his victims randomly as he went on a rampage over several hours in three different locations, including five people he shot in the parking lot of a Cracker Barrel restaurant. He was "arrested without incident" at a downtown Kalamazoo bar about six hours after the rampage began.	6	2	8	Other	Unclear	Unclear	Yes		Semiautomatic handgun (ammo used unclear)	9 mm handgun (ammo used unclear)	White	M	http://www.nytimes.com/2016/02/22/us/kalamazoo-michigan-random-shooting.html	http://www.nytimes.com/2016/02/22/us/kalamazoo-michigan-random-shooting.html	41.9294736	-86.7503647	Mass
San Bernardino mass shooting	San Bernardino, California	12/2/2015	2015	Syed Rizwan Farook left a Christmas party held at Inland Regional Center, later returning with Tasheen Malik and the two opened fire, killing 14 and wounding 21, ten critically. The two were later killed by police as they fled in an SUV.	14	21	35	Workplace	Unclear	Unclear	Yes	The suspects purchased their handguns in the United States; the assault rifles were purchased	Two assault rifles and two semiautomatic pistols were used in the attack. Police Smith & Wesson M&P15, both controlled with 223 caliber	Other	Male & Female	http://www.nytimes.com/2015/12/03/san-bernardino-shooting-and.html	http://www.nytimes.com/2015/12/03/san-bernardino-shooting-and.html	35.6672015	-97.42937037	Mass	

Mother Jones Investigates U.S. Mass Shootings, 10/2/2018

Case	Location	Date	Year	Summary	Fatalities	Injured	Total victims	Veru	Prior signs of mental health	Mental health -	Weapons obtained	Where obtained	Type of weapons	Weapon details	Race	Gender	Sources	Mental Health Sources	latitude	longitude	Type
Planned Parenthood clinic	Colorado Springs, Colorado	11/27/2015	2015	Robert Lewis Dear, 57, shot and killed a police officer and two citizens when the opened fire at a Planned Parenthood health clinic in Colorado Springs, Colorado. Nine others were wounded. Dear was arrested after an hours-long standoff with police.	3	9	12	Wor	Unclear	The judge in the case has not publicly released Dear's medical and mental health records. As of April 5, 2016, Dear was undergoing a competency evaluation. Dear	Unknown	Unclear	Long gun	Reportedly an AK-47 style semiautomatic rifle and others. Authorities had not released details on Dear's weapons as	White	M	http://ww w.time s.com/20 15/11/28 /us/color ado-planned-parentho od-shooting.html and http://ww w.mothe rjones.co m/mojor 2015/11/28/us/colorado-shooting-colorado-springs		47.51864486	-117.5483587	Mass
Colorado Springs shooting rampage	Colorado Springs, Colorado	10/31/2015	2015	Noah Hepharm, 33, shot three people before dead in Colorado Springs before police killed him in a shootout.	3	0	3	Other	Unclear	Prior to the rampage, Hepharm wrote an "incoherent" blog and rambled "nonsensically" in a video about mind control techniques and	Yes	Unclear	Two handguns and a rifle	AR-15 rifle, a 9 mm pistol, and a .357 revolver	White	M	http://ww w.mothe rjones.co m/mojor 2015/11/28/us/colorado-shooting-colorado-springs		37.2295733	-80.4139393	Mass
Umpqua Community College shooting	Roseburg, Oregon	10/1/2015	2015	26-year-old Chris Harper-Mercer opened fire at Umpqua Community College in southwest Oregon. The gunman shot himself to death after being wounded in a shootout with police.	9	9	18	School	Unclear	Harper-Mercer's mother said in multiple online postings that he had Asperger's syndrome. Harper-Mercer graduated from the Switzer Learning Center, a school for	Yes	From the home he shared with his mother. All were legally obtained by either Harper/Mercer or family	Five pistols, one rifle, five magazines of ammunition	9 mm Glock pistol, 40 & Wesson, .40 caliber Taurus pistol, Harper-Mercer .556 caliber Del-Ton; (ammo details unclear)	Other	Male	http://ww w.time s.com/20 15/10/03 /us/chris-harper-merc-mercer-unqua-shooting-colorado-springs	http://ww w.time s.com/20 15/10/03 /us/chris-harper-merc-mercer-unqua-shooting-colorado-springs	35.345802	-79.4170543	Mass
Chattanooga military recruitment center	Chattanooga, Tennessee	7/16/2015	2015	Kuwaiti-born Mohammad Youssef Abdulazeez, 24, a naturalized US citizen, opened fire at a Naval reserve center, and then drove to a military recruitment center where he shot and killed four Marines. He was then fatally shot in an exchange of gunfire with law enforcement officers responding to the attack.	5	2	7	Military	Unclear	Abdulazeez "had suffered for years from depression and some of them (they don't have been)"	Yes ("some of the weapons were purchased legally and some of them (they don't have been)"	On the internet, via Armslist.com	2 assault rifles, 1 handgun	AK-47, AR-15, and 30-semiautomatic round	Other	Male	http://ww w.reuter s.com/20 15/07/16/us-aaa-shooting-tennessee-idUSKC N0PQ1	http://ww w.reuter s.com/20 15/07/16/us-aaa-shooting-tennessee-idUSKC N0PQ1	26.1223084	-80.1433786	Mass
Charleston Church Shooting	Charleston, South Carolina	6/7/2015	2015	Dylann Storm Roof, 21, shot and killed 9 people after opening fire at the Emanuel AME Church in Charleston, South Carolina. According to a roommate, he had allegedly been "planning something like that for six months."	9	1	10	Religious	Unclear	Yes	Yes	Shooter's Choice gun store in West Columbia, South Carolina	Handgun	.45-caliber Glock (model 41, with 13-round capacity magazine)	White	Male	http://ww w.mothe rjones.co m/pollic s/2015/0 6/dylann-roofs-atomey; http://ww w.renewsw eek.com/2015/06/11/el eased-menasha-police-issue-final-report-on-trestle-	http://ww w.mothe rjones.co m/pollic s/2015/0 6/dylann-roofs-atomey; http://ww w.renewsw eek.com/2015/06/11/el eased-menasha-police-issue-final-report-on-trestle-	25.796491	-80.226683	Mass
Trestle Trail bridge shooting	Menasha, Wisconsin	6/11/2015	2015	Sergio Valencia del Toro, 27, in what officials say was a random act, shot and killed three people including an 11-year-old girl before turning the gun on himself.	3	1	4	Other	Yes	While serving in the Air Force, he went to a clinic because of concerns over his mood swings and had either sought or been ordered to behavioral	Yes	Unclear	Two handguns	Details after the shooting, police found eight guns in total in Valencia del Toro's home, including handguns, Beretta .40-caliber handgun	Latino	M	http://ro x.com/2015/06/11/el eased-menasha-police-issue-final-report-on-trestle-	http://ro x.com/2015/06/11/el eased-menasha-police-issue-final-report-on-trestle-	39.9559	-76.0806	Mass
Marysville-Pitchuck High School shooting	Marysville, Washington	10/24/2014	2014	Jaylen Fryberg, 15, using a .40-caliber Berretta, shot five students at Marysville High School, including two of his cousins and three friends, killing all but one. Fryberg arranged to meet them for lunch in the school cafeteria by text. Fryberg was reportedly well-liked at the school and there was not believed to be any link between him and his victims. He committed suicide at the scene.	5	1	6	School	Unclear	Fryberg was well-liked and allegedly happy, but was also upset about a girl and had posted emotional social media messages. No definitive signs	No	Gun was his father's.	Handgun	Beretta .40-caliber handgun	Native American	Male	http://ww w.seattle times.co m/seattle/news/fou rth-marysвил almost-shooting-victim-health-dies-as-	http://ww w.seattle times.co m/seattle/news/fou rth-marysвил almost-shooting-victim-health-dies-as-	38.5933862	-90.406785	Mass

Author: Jones' Investigation U.S. Marsh. Services, 1982-2018

ER000961

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Case	Location	Date	Year	Summary	Fatalities	Injured	Total victims	Victims	Prior signs of mental health	Mental health details	Weapons obtained legally	Where obtained	Type of weapons	Weapon details	Race	Gender	Sources	Mental Health Sources	latitude	longitude	Type
Su Jung Health Sauna shooting	Norcross, Georgia	2/21/2012	2012	Jong Soo Park, 59, returned to a Korean spa from which he had been kicked out after allegedly gunned down two of his sisters and their husbands before committing suicide.	5	0	5	One	Yes	His sister was shot about his homicidal tendencies, she said his mental health had been deteriorating and that he had threatened to commit suicide with his gun.	Yes	Unknown	One semiautomatic handgun	.45-caliber semiautomatic handgun	Asian	Male	http://www.fox.com/entertainment/2012/02/21/2012-02-21-jong-soo-park-shoots-his-sisters-and-himself/	http://www.fox.com/entertainment/2012/02/21/2012-02-21-jong-soo-park-shoots-his-sisters-and-himself/	39.0768761	-121.5475762	Mass
Seal Beach shooting	Seal Beach, California	10/12/2011	2011	Scott Evans Dekraai, 42, opened fire inside a hair salon and was later arrested.	8	1	9	One	Yes	He suffered from bipolar disorder, mood swings, and PTSD.	Yes	Unknown	Two semiautomatic handguns, one revolver	.45-caliber Heckler & Koch, 9mm Springfield semiautomatic handgun, .44 Magnum Smith & Wesson revolver	white	Male	http://www.fox.com/entertainment/2011/10/13/2011-10-13-seal-beach-shooting/	http://www.fox.com/entertainment/2011/10/13/2011-10-13-seal-beach-shooting/	41.6608893	-91.5302214	Mass
IKOP shooting	Carson City, Nevada	9/6/2011	2011	Eduardo Sencion, 32, opened fire at an International House of Pancakes restaurant and later died from a self-inflicted gunshot wound.	5	7	12	One	Yes	He was diagnosed with paranoid schizophrenia as a teenager and feared demons were out to get him.	Yes	Purchased from an individual	Two rifles (both assault), one revolver	AK-47 Norinco Arms variant, AK-47 Romarm Cugir variant rifles, .38-caliber Colt revolver	Latino	Male	http://www.fox.com/entertainment/2011/09/06/2011-09-06-ikop-shooting/	http://www.fox.com/entertainment/2011/09/06/2011-09-06-ikop-shooting/	37.9577016	-121.2907796	Mass
Tucson shooting	Tucson, Arizona	1/8/2011	2011	Jared Loughner, 22, opened fire outside a Safeway during a constituent meeting with Congresswoman Gabrielle Giffords (D-Ariz.) before he was subdued by bystanders and arrested.	6	13	19	One	Yes	His symptoms pointed to various possible mental illnesses, such as schizophrenia and delusional disorder. He also experimented	Yes	Sportsmen's Warehouse in Tucson, Ariz.	One semiautomatic handgun	9mm Glock semiautomatic handgun	white	Male	http://www.fox.com/entertainment/2011/01/08/2011-01-08-tucson-shooting/	http://www.fox.com/entertainment/2011/01/08/2011-01-08-tucson-shooting/			Mass
Hartford Beer Distributor shooting	Manchester, Connecticut	8/3/2010	2010	Omar S. Thornton, 34, shot up his Hartford Beer Distributor workplace after facing disciplinary issues, then committed suicide.	9	2	11	Wore	No	He apparently was driven over the edge by unaddressed, ongoing racism against him at work	Yes	Gun dealer in East Windsor, Conn.	Two semiautomatic handguns	Two 9mm Ruger SR9 semiautomatic handguns	black	Male	http://www.fox.com/entertainment/2010/08/03/2010-08-03-hartford-beer-distributor-shooting/	http://www.fox.com/entertainment/2010/08/03/2010-08-03-hartford-beer-distributor-shooting/			Mass
Coffee shop police killings	Parkland Washington	11/29/2009	2009	Maurice Clemmons, 37, a felon who was out on bail for a parole violation, opened fire on a Sunday morning and shot four police officers who had gone there to use their laptops before their shifts. Clemmons, who was wounded fleeing the scene, was later shot dead by a police officer in Seattle after a two-day manhunt.	4	1	5	One	Yes	He had a history of bizarre behavior. He once asked his family to get naked for 5 minutes on Sunday; he said he thought the world would end and that he was	No	Stolen from a friend, individual in Seattle.	One semiautomatic handgun	9mm Glock semiautomatic handgun, .38-caliber Smith & Wesson revolver	black	Male	http://www.fox.com/entertainment/2009/11/29/2009-11-29-coffee-shop-police-killings/	http://www.fox.com/entertainment/2009/11/29/2009-11-29-coffee-shop-police-killings/			Mass
Fort Hood massacre	Fort Hood, Texas	11/5/2009	2009	Army psychiatrist Nidal Malik Hasan, 39, opened fire on an Army base in an attack linked to Islamist extremism. Hasan was injured during the attack and later arrested.	13	30	43	Military	Unclear	Medical officials at Walter Reed Army Medical Center and the Uniformed Services University of the Health Sciences raised concerns prior to the shooting	Yes	Guns in Killeen, Texas	One semiautomatic handgun	FN Five-seven semiautomatic handgun	Other	Male	http://www.fox.com/entertainment/2009/11/05/2009-11-05-fort-hood-massacre/	http://www.fox.com/entertainment/2009/11/05/2009-11-05-fort-hood-massacre/	42.4894801	-83.146485	Mass

Not for use in litigation, U.S. Marshals Service, 10/10/2018

Case	Location	Date	Year	Summary	Fatalities	Injured	Total victims	View prior signs of mental health	Mental health - details	Weapons obtained legally	Where obtained	Type of weapons	Weapon details	Race	Gender	Sources	Mental Health Sources	longitude	latitude	Type
Binghamton shootings	Binghamton, New York	4/3/2009	2009	Jiwey Wong, 41, opened fire at an American Civic Association center for immigrants before committing suicide.	14	4	18	Other Yes	He apparently had a paranoid delusion growing. He also sent a delusional letter to a local TV station right before the shooting.	Yes	Gander Mountain in Johnson City, N.Y.	Two semiautomatic handguns	9mm Beretta, .45-caliber Springfield semiautomatic handguns	Asian	Male	http://www.wtime.com/2009/04/12/090412/nyregion/nyregion/12binghamton.htm?page=wanted=all&_r=1	http://www.wtime.com/2009/04/12/090412/nyregion/nyregion/12binghamton.htm?page=wanted=all&_r=1			Mass
Carthage nursing home shooting	Carthage, North Carolina	3/29/2009	2009	Robert Stewart, 45, opened fire at a nursing home where his estranged wife worked before he was shot and arrested by a police officer.	8	3	11	Other Yes	His estranged wife told her workplace that her husband had an "unstable mental state (he's mentally ill)."	Yes	Local sporting goods stores and individuals	One revolver, one shotgun	Winchester 1300 pump-action shotgun; .357 Magnum revolver	white	Male	http://www.wral.com/news/local/story/98456/39/	http://www.wral.com/news/local/story/98456/39/			Mass
Atlantis Plastics shooting	Henderson, Kentucky	6/25/2008	2008	Disgruntled employee Wesley Neal Higdon, 25, shot up an Atlantis Plastics factory after he was escorted out of his workplace for an argument with a supervisor. Higdon shot the supervisor outside the factory before opening fire on coworkers inside. He then committed suicide.	6	1	7	Workplace No	He called his girlfriend two hours before the shooting to say he was going to kill his boss.	Yes	Unknown	One semiautomatic handgun	.45-caliber Hi-Point semiautomatic handgun	white	Male	http://www.wfor.com/story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,story/0,2,s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Not for Journal Investigation, U.S. Marshals Service, 10/12/2018

Case	Location	Date	Year	Summary	Fatalities	Injured	Total victims	Victims	Prior signs of mental illness	Mental health details	Weapons legality	Where obtained	Type of weapons	Weapon details	Race	Gender	Source	Mental Health Sources	latitude	longitude	Type
Virginia Tech massacre	Blacksburg, Virginia	4/16/2007	2007	Virginia Tech student Seung-Hui Cho, 23, opened fire on his school's campus before committing suicide.	32	23	55	Scho	Yes	A district court ruled Cho was "an imminent danger" to himself and others as a result of mental illness two years earlier, and directed Cho to seek treatment.	Yes	Purchased various weapons online and from Roanoke Firearms in Roanoke, Va.	Two semiautomatic handguns	9mm Glock 19, 22-caliber Walther P22 semiautomatic handguns	Asian	Male	http://www.wtime.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://ab.wtime.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	39.8622601	-83.0007065	Mass
Trolley Square shooting	Salt Lake City, Utah	2/12/2007	2007	Suleiman Talovic, 18, rampaged through the shopping center until he was shot dead by police.	6	4	10	Other	Unclear	According to one relative, he was violent and had the mental capacity of a child (but not a child). Accounts from friends and relatives indicate this about the shooter.)	Unknown	Purchased various weapons from Sportsman's Fast Cash in West Valley City, Utah. Friends and relatives indicate this about the shooter.)	One revolver, one shotgun	Mossberg 88 Field shotgun; .38-caliber Smith & Wesson M36 revolver	white	Male	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	44.9772985	-93.2654682	Mass
Amish school shooting	Lancaster County, Pennsylvania	10/2/2006	2006	Charles Carl Roberts, 32, shot 10 young girls in a one-room schoolhouse in Bart Township, killing 5, before taking his own life.	6	5	11	School	No	He told his wife that he'd molested two young relatives 20 years ago.	Yes	Local stores in Nickel Mines, Penn.	One semiautomatic handgun, one rifle, one shotgun	Springfield semiautomatic handgun; .30-06 Ruger bolt-action rifle; 12-gauge Browning pump-action shotgun	white	Male	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	40.7267682	-73.6342955	Mass
Capitol Hill massacre	Seattle, Washington	3/25/2006	2006	Kyle Aaron Huff, 28, opened fire at a rave afterparty in the Capitol Hill neighborhood of Seattle before committing suicide.	7	2	9	Other	No	Police were unable to find any record that he had been in the mental health system or was on psychiatric medication.	Yes	Various sporting goods stores in Kent, Wash.	Two semiautomatic handguns, one rifle (assault), one shotgun	.40-caliber Ruger, one semiautomatic handgun, one rifle, one shotgun	white	Male	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	41.7759324	-72.5214755	Mass
Goleta postal shootings	Goleta, California	1/30/2006	2006	Former postal worker Jennifer Sanmarco, 44, shot dead a former neighbor then drove to the mail processing plant where she used to work. Inside, she opened fire, killing six employees before committing suicide.	8	0	8	Workplace	Yes	She was placed on retirement disability for psychological reasons. Fellow employees described her behavior as increasingly bizarre. She believed the	Yes	Pawn shops in Grants and Gallup, N.M.	One semiautomatic handgun	9mm Smith & Wesson 915 semiautomatic handgun	white	Female	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1			Mass
Red Lake massacre	Red Lake, Minnesota	3/21/2005	2005	Jeffrey Weise, 16, murdered his grandfather, who was a police officer, and grandfather's girlfriend. Weise then shot and killed his mother and brother at the reservation campus, killing another seven people before committing suicide.	10	5	15	School	Yes	He voluntarily visited a psychiatric hospital at least once for suicidal tendencies and was taking Prozac.	No	Glock and Remington stores in Grandfather	Two semiautomatic handguns, one shotgun	40-caliber Glock 23, 22-caliber Remington semiautomatic handgun	Native American	Male	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	35.0539931	-78.8787058	Mass
Living Church of God shooting	Brookfield, Wisconsin	3/12/2005	2005	Living Church of God member Terry Michael Ratzmann, 44, opened fire at a church meeting at a Sheraton hotel before committing suicide.	7	4	11	Religious	Yes	Neighbors said he suffered from depression and had a drinking problem.	Yes	Gun dealer in Waukesha, Wis.	One semiautomatic handgun	9mm Beretta semiautomatic handgun	white	Male	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	http://www.wdesere.com/2007/04/24/Story71/us/24vird-30522glin.htm?pg=1	-118.494754		Spree

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September 2013



**Analysis of Recent
MASS
SHOOTINGS**

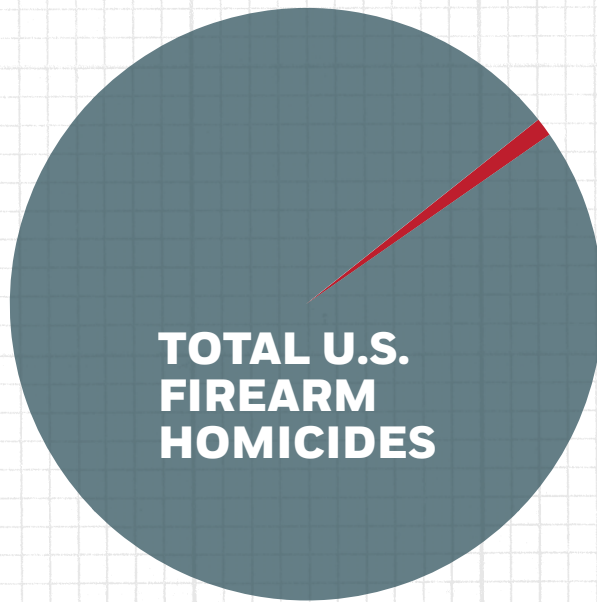


ANALYSIS OF RECENT MASS SHOOTINGS

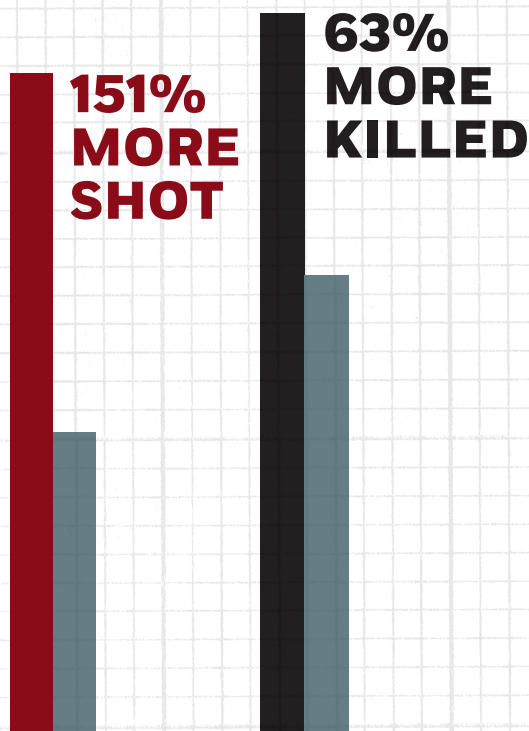
Mayors Against Illegal Guns conducted a comprehensive analysis of every mass shooting between January 2009 and September 2013 that was identifiable through FBI data and media reports. This report describes the **93 MASS SHOOTINGS — ALMOST TWO PER MONTH — THAT OCCURRED IN 35 STATES** in the nearly five-year period. Each description includes the location of the shooting, number of people killed and/or injured, and information on the shooter, gun(s), ammunition, and gun purchase, where available.

The FBI defines “mass shooting” as any incident where at least four people were murdered with a gun. Mayors Against Illegal Guns reviewed mass shootings in the FBI’s Supplementary Homicide Reports from 2009-2011, the most recent data available, and searched the media for further details about these incidents as well as for mass shootings that occurred in 2012 and 2013.

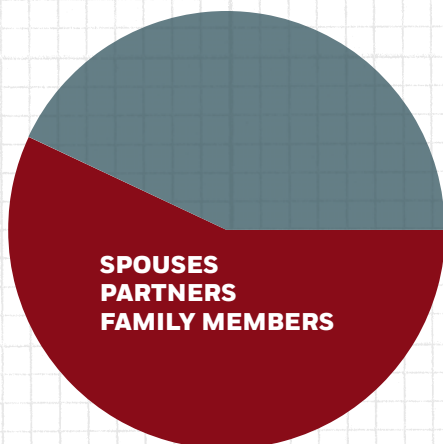
This survey includes every shooting we identified in which at least four people were murdered with a gun. And the findings reveal a different portrait of mass shootings in America than conventional wisdom might suggest:

**Analysis of Recent MASS SHOOTINGS****3****Mass shootings**

represent a small share of total U.S. firearm homicides. Less than one percent of gun murder victims recorded by the FBI in 2010 were killed in incidents with four or more victims.

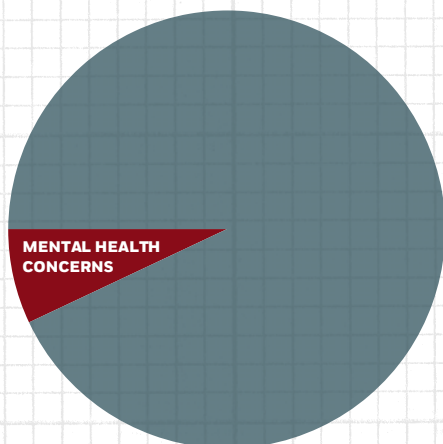
**Assault weapons or high-capacity magazines**

were used in at least 14 of the incidents (15%). These incidents resulted in an average of 14.4 total people shot — 151% more people shot than in other incidents (5.7) — and 7.8 deaths — 63% more deaths than in other incidents (4.8).



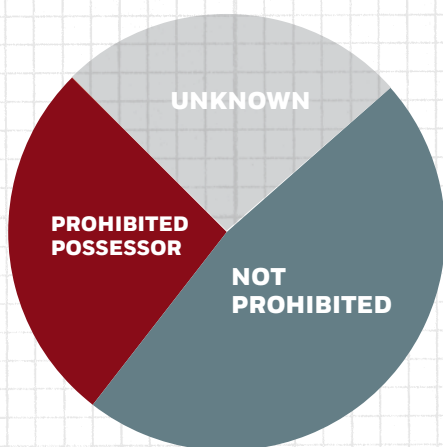
Domestic or family violence

There was a noteworthy connection between mass shooting incidents and domestic or family violence. In at least 53 of the cases (57%), the shooter killed a current or former spouse or intimate partner or other family member, and in at least 17 incidents the shooter had a prior domestic violence charge.



Mental health

We did not find evidence that any of the shooters were prohibited from possessing guns by federal law because they had been adjudicated mentally ill or involuntarily committed for treatment. In 10 of the 93 incidents (11%), we found evidence that concerns about the mental health of the shooter had been brought to the attention of a medical practitioner, school official or legal authority prior to the shooting.



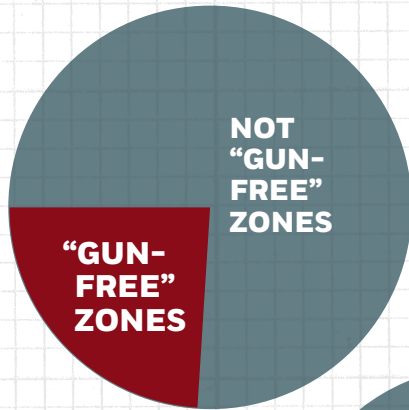
Role of prohibited possessors

Certain categories of people, including felons, certain domestic abusers, and people adjudicated mentally ill are prohibited by federal law from possessing guns. We had sufficient evidence to judge whether the shooter was a prohibited gun possessor in 75 of the 93 incidents (81%). Of those 75 incidents, 32 (43%) involved a prohibited possessor, and 43 (57%) did not.



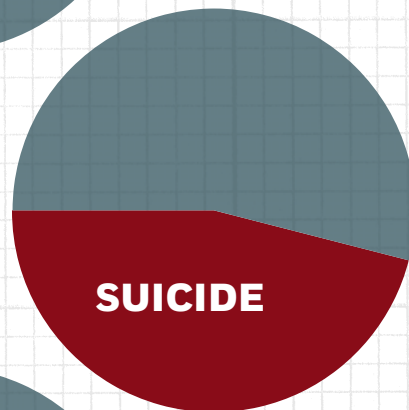
Analysis of Recent MASS SHOOTINGS

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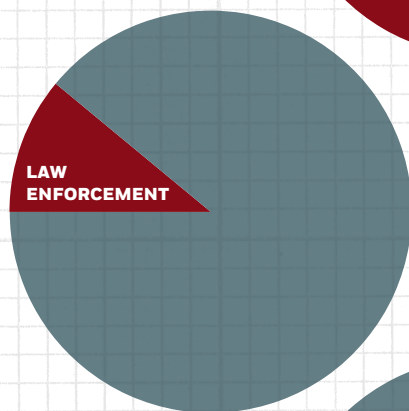
"Gun-free" zones

Sixty-two of the 93 incidents (67%) took place wholly in private residences. Of the 31 incidents in public spaces, at least 17 took place wholly or in part where concealed guns could be lawfully carried. All told, no more than 14 of the shootings (15%) took place entirely in public spaces that were so-called "gun-free zones."



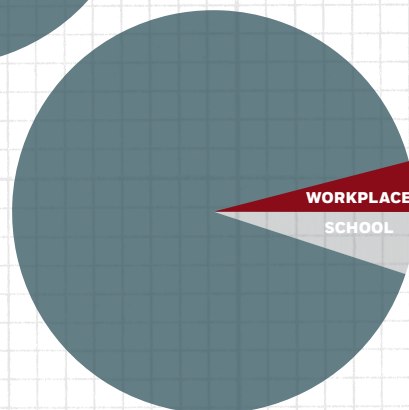
Suicide

In 40 of the 93 incidents (43%), the shooter committed suicide during the incident.



Law enforcement

In 13 of the 93 shootings (14%), law enforcement or military officers were targeted in the shooting or killed or injured responding to it.



Workplace and school shootings

Four of the 93 shootings (4%) occurred at the shooter's current or former workplace. Four of the 93 shooting incidents (4%) took place in schools, including primary, secondary, and college campuses.



MASS SHOOTING INCIDENTS JANUARY 2009–SEPTEMBER 2013 (in reverse chronological order)

Washington, D.C., 9/16/2013: The alleged shooter, who was a civilian contractor and former non-combat military, killed twelve and wounded three more in an attack on Building 197 at the Navy Yard.

- **SHOOTER NAME:** Aaron Alexis, 34
- **GUN DETAILS:** The shooter arrived with a shotgun and also obtained a handgun from one a security guard that he killed.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Two days before the incident the shooter passed a National Instant Criminal Background Check System (NICS) at the licensed gun dealer Sharpshooters in Lorton, VA, and purchased the shotgun.
- **PROHIBITING CRITERIA:** The shooter had been arrested at least three times including: in September 2010 in Fort Worth, Texas for shooting a firearm into a neighbor's apartment; in August 2008 in Dekalb County, Georgia for disorderly conduct; and in 2004 in Seattle, Washington for shooting out the tires of another man's vehicle. But court records do not indicate he was convicted in any of these cases, and this record did not prohibit him from buying guns. He had also received treatment for mental health conditions at two VA hospitals beginning in August, 2013 following an incident where he called Newport Rhode Island Police to report hearing voices. But these incidents did not rise to the level of prohibiting from buying guns. And during his military service he was reportedly cited on at least eight occasions for misconduct ranging from traffic tickets and showing up late for work to insubordination, extended absences from work, and disorderly conduct. On account of this the Navy sought to offer him a "general discharge" but he was ultimately honorably discharged through the early-enlisted transition program in January 2011.
- **NOT A GUN-FREE ZONE:** There were armed guards at the Washington Navy Yard, and the shooter was familiar with the premises, so he did not select it as a target on the presumption he would not faced armed resistance. In fact, the shooter reportedly used a gun that he took from a guard after killing him.

Crab Orchard, TN, 9/11/2013: Bennett and his girlfriend Moser killed a woman and three teenagers, apparently during an attempted robbery during a marijuana exchange. The victims' bodies were discovered in a car parked along the side of the road in the Renegade Mountain resort community near Crossville.

- **SHOOTER NAME:** Jacob Allen Bennett, 26 and Brittany Lina Yvonn Moser, 25
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Bennett was prohibited from possessing firearms. In 2010 he received a 6-year prison sentence for charges of theft, forgery, and possession of a handgun during a felony, but was paroled on March 4, 2013. The Cumberland County sheriff's office estimated they had previously arrested Bennett



Analysis of Recent MASS SHOOTINGS

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five times.

- **NOT A GUN-FREE ZONE:** We could find no evidence that permit holders were prohibited from carrying guns in this area. In Tennessee, concealed weapons would be prohibited only if the county or municipality declared itself a gun-free zone.

Oklahoma City, OK, 8/14/13: The shooter killed four of his relatives including an infant inside of their family home.

- **SHOOTER NAME:** Daniel Green, 40
- **GUN DETAILS:** .380 semiautomatic handgun
- **AMMO DETAILS:** A box of .380 handgun ammunition was found in the vehicle when the shooter was arrested.
- **GUN ACQUIRED:** One of the victims owned a .380 semiautomatic handgun and kept it hidden in the attic.
- **PROHIBITING CRITERIA:** Green's father told police in an affidavit that his son was schizophrenic, but there is no evidence that Green had been adjudicated mentally ill or had a criminal history that would prohibit gun ownership.

Dallas, TX, 08/07/2013: The gunman shot and killed his girlfriend and her daughter, and injured two others; and then in a separate attack shot and killed his estranged wife and her daughter, and injured another two people. He also detonated an explosive but it did not harm anyone.

- **SHOOTER NAME:** Erbie Lee Bowser, 44
- **GUN DETAILS:** .380 pistol
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter's estranged wife had obtained a protective order against Bowser in February 2011, citing family violence, and he was later arrested for violating the order. The order seems to have expired in February 2012, but would likely have been prohibiting while it was in place. A criminal conviction for domestic violence, which would also likely have been prohibiting, was expunged from his record after he completed a court program for veterans in the summer of 2012. Bowser was a veteran, but he had not served in combat — making him ineligible to enter the program. He apparently lied about his military history in order to enter the program.

Clarksburg, WV, 07/26/2013: According to a criminal complaint, the shooter was trying to collect \$10,000 two men owed him for drugs when one of them aimed a handgun at him. He stripped the man of the weapon and used it to kill them both; he then shot and killed a father-son newspaper delivery team that happened to be outside the house.

- **SHOOTER NAME:** Sidney Muller, 27
- **GUN DETAILS:** 9mm Beretta
- **AMMO DETAILS:** Unknown



- **GUN ACQUIRED:** Gun apparently belonged to one of the victims
- **PROHIBITING CRITERIA:** The shooter had been convicted previously for driving under the influence and had been arrested for driving with a suspended license, but was not criminally prohibited from possessing a gun. The shooter was also a veteran of the U.S. Marine Corps and his lawyers indicated he had scored four out of five in Post-Traumatic Stress Disorder testing and had been diagnosed as bipolar. He was reportedly in treatment at the local VA hospital. But there is no evidence his mental illness rose to the level of prohibiting him from possessing guns.

Hialeah, FL, 7/16/13: The shooter killed the two managers of his building, a bystander across the street, and three more occupants before police killed him in a standoff.

- **SHOOTER NAME:** Pedro Alberto Vargas, 42
- **GUN DETAILS:** Glock 17 9mm semiautomatic pistol
- **AMMO DETAILS:** Hundreds of additional rounds were found in Vargas' apartment following the incident.
- **GUN ACQUIRED:** Vargas obtained a concealed weapons permit after completing a two-hour training and four-hour safety course in the fall of 2010 at the Florida Gun Center in Hialeah. In October 2010 he passed a background check and purchased a Glock 17, which was used in the shootings.
- **PROHIBITING CRITERIA:** The shooter had developed a pattern of anonymously harassing his former co-workers online, and was confronted about it three days before the shooting. But there is no evidence Vargas was prohibited from owning a gun.

Santa Monica, CA, 6/7/13: The shooter killed his father and brother, burned down their house, and shot and wounded a passing driver who tried to intervene. He then carjacked another vehicle and made the driver transport him to Santa Monica College, firing at a city bus and police cruiser along the way, injuring three. Once on the college's campus, he shot and killed three people outside and fired 70 rounds at students in the library before he was shot and killed by police.

- **SHOOTER NAME:** John Zawahri, 23
- **GUN DETAILS:** The shooter was armed with a .223 caliber AR-15 assault rifle that did not have a serial number; this type of rifle is prohibited in California. A .44 caliber "black powder" revolver that had been converted to fire .45 caliber rounds and three 'Zip Guns,' which are illegal to possess, were also recovered.
- **AMMO DETAILS:** The shooter was carrying a duffel bag containing approximately 1,300 rounds of ammunition. He was armed with approximately forty 30-round .223 magazines, which are illegal to purchase, sell, or transfer in the state of California.
- **GUN ACQUIRED:** The assault rifle, high-capacity magazines, and several components to modify the firearms may have been shipped from outside California. The firearms were not registered to the shooter or to his family members.
- **PROHIBITING CRITERIA:** The shooter had a history of mental health issues and had previously been held for a short-term psychiatric evaluation, which would have prohibited him from accessing or possessing a firearm for five years, but the prohibition expired in 2011. The shooter had attempted to buy a firearm in 2011, but a letter from the Department of Justice discovered in his bedroom after the shooting indicated that he had not been eligible to purchase it at that time, likely because of this hospitalization.

**Analysis of Recent MASS SHOOTINGS****9**

Fernley, NV, 05/13/2013: On May 10th, the shooter killed a couple in their home and stole \$3,500 in cash and jewelry. Three days later, he killed two more people and stole a firearm and their vehicle, and then shot and killed another person later that day.

- **SHOOTER NAME:** Jeremiah Bean, 25
- **GUN DETAILS:** NEF Co. Model R92 .22 caliber handgun. The shooter also stole a Smith & Wesson from one of his victims.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter had been previously convicted for felony charges of burglary and grand larceny, and finished his parole in December 2012. This criminal record likely prohibited him from possessing firearms.

Waynesville, IN, 5/11/13: The alleged shooter killed four people in a home where methamphetamine was subsequently discovered, leading police to believe the crime was drug-related.

- **SHOOTER NAME:** Samuel Earl Sallee, 55
- **GUN DETAILS:** A Ruger 10/22 .22 caliber rifle was recovered.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The alleged shooter, who had been at the location of the homicides just hours before the bodies were discovered, was taken into custody two days after the shooting. He was prohibited from possessing firearms due to several prior felony convictions including for intimidation, drunk driving (on multiple occasions), receipt of stolen property, and battery. Although authorities delayed in charging the shooter with a crime while they tried to determine a motive for the homicides, they charged him with illegal firearm possession.

Ottawa, KS, 04/28/2013: The shooter raped and killed a woman, as well as killing her 18-month old daughter and two men who were with her at a farm in eastern Kansas.

- **SHOOTER NAME:** Kyle Flack, 27
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In 2005 the shooter was convicted of attempted murder in the 2nd degree, having shot a man five times with a pistol, but he only served two years of a five-year sentence and was paroled in July 2009. He was required to register as a violent offender until 2024 and was prohibited from buying guns. His mother also sought mental health treatment on his behalf; her concerns were dismissed, but Flack ultimately submitted to a mental health evaluation.

Manchester, IL, 4/24/13: The shooter broke into a home and killed the grandmother of his child and four of her family members including two young children, apparently related to a cus-



tody dispute over his 3-year-old daughter. The shooter was subsequently killed in a gunfight with law enforcement.

- **SHOOTER NAME:** Rick Odell Smith, 43
- **GUN DETAILS:** All of the victims were killed with a Winchester 20-gauge pump-action shotgun. A .270 Bolt Action Winchester rifle and Ruger carbine rifle were also recovered.
- **PROHIBITING CRITERIA:** The shooter had been previously convicted for felony reckless homicide, which would likely have prohibited from possessing guns, along with drug possession and writing bad checks.

Federal Way, WA, 4/21/13: The shooter killed his girlfriend inside the apartment they shared and then fatally shot two men in a nearby parking lot. When a neighbor called 911, the shooter broke down the man's door with a shotgun and killed him. He was subsequently shot and killed by police.

- **SHOOTER NAME:** Dennis Clark III, 27
- **GUN DETAILS:** .40 caliber semi-automatic handgun and a pistol grip Mossberg 500 pump shotgun. Federal Way Police report that Clark had a permit to carry a concealed weapon and was the registered owner of at least two firearms, including the handgun he used in the shooting.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Clark had no criminal convictions but in 2002 had used a BB gun to shoot a girl in the buttocks and back after she broke up with him, resulting in a fourth-degree assault charge that was dismissed. He was charged with misdemeanor criminal trespass in 2003. And in March 2009 he was charged with harming a police dog but the case was dismissed.

Akron, OH, 4/18/13: The shooters killed four people inside a townhouse; the initial motive for the crime was reportedly robbery.

- **SHOOTER NAME:** Derrick Brantley, 21 and Deshanon Haywood, 21
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** One shooter, Brantley, was free on bond awaiting trial on felony charges of heroin trafficking. The other, Haywood, was paroled from prison in February 2012 after serving part of a two-year sentence for cocaine trafficking and heroin possession. He immediately violated his parole and was sentenced to 45 days of house arrest. Both were likely prohibited from possessing firearms by their criminal histories.

Herkimer, NY, 04/13/2013: The shooter killed two people and critically wounded one at John's Barber Shop and then killed two more people at Gaffey's Fast Lube, a car care facility. He was killed by responding officers.



Analysis of Recent MASS SHOOTINGS

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- **SHOOTER NAME:** Kurt Myers, 64
- **GUN DETAILS:** According to the police superintendent, Myers used a shotgun. Additional guns and ammunition were found by emergency crews after Myers set fire to the apartment.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no reason to believe Myers was prohibited him from possessing a gun. He was arrested in 1973 for drunk driving
- **NOT A GUN-FREE ZONE:** Gaffey's Fast Lube does not have a specific policy prohibiting guns and allows permit holders to carry concealed weapons on the premises. John's Barbershop did not reopen following the shooting but the owner of a neighboring business did not recall the barbershop having any explicit firearm policy or ban, which would have been required to prohibit customers from carrying guns on the premises.

Albuquerque, NM, 1/19/13: The shooter killed his parents and three siblings in their home. He then loaded a van with guns and ammunition with the intent to kill his girlfriend's family and die in a shootout at Wal-Mart, according to court documents. Instead, he spent the next day with his girlfriend and her family and went to a church he regularly attended, where he was arrested for murder after speaking with the pastor.

- **SHOOTER NAME:** Nehemiah Griego, 15
- **GUN DETAILS:** AR-15 assault rifle, .22 rifle, and two shotguns
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The guns had been legally purchased by his parents.
- **PROHIBITING CRITERIA:** As a juvenile, the shooter was prohibited from purchasing firearms, but it was lawful for him to possess long guns like those used in the incident.

Tulsa, OK, 1/7/13: During a robbery the shooters bound the hands of four women in an apartment at the Fairmont Terrace complex and shot each one in the head. The 3-year-old son of one of the victims was in the apartment at the time of the incident but was unharmed.

- **SHOOTER NAME:** Cedric Dwayne Poore, 39 and James Stanford Poore, 32
- **GUN DETAILS:** .40 caliber pistol
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Both shooters had extensive criminal histories: Cedric Poore received a 35-year prison sentences in 1995 for armed robbery and James Poore received a 12-year sentence in 2000 for armed robbery with a firearm. Both were released in 2011, but likely remained prohibited from possessing firearms.

Newtown, CT (Sandy Hook Elementary School), 12/14/12: The shooter killed his



mother in her home and then traveled to a nearby elementary school where he shot twenty-eight people, killing twenty-six of them, including twenty children, before killing himself.

- **SHOOTER NAME:** Adam Peter Lanza, 20
- **GUN DETAILS:** A Bushmaster .223 assault-style rifle was used in the attack at the elementary school. A 10mm Glock handgun, a 9mm SIG Sauer handgun, and a shotgun were also recovered at the crime scene.
- **AMMO DETAILS:** Lanza was carrying multiple high-capacity clips, reportedly enough ammunition to kill nearly every student at school.
- **GUN ACQUIRED:** The guns were legally registered to Lanza's mother, who he shot and killed earlier in the day and with whom he lived.
- **PROHIBITING CRITERIA:** Under Connecticut law, Lanza would have been prohibited from possessing handguns because he had not reached the legal age, 21. However, he would not have been prohibited from possessing a long gun like the Bushmaster rifle used in the shooting. Lanza's mental health was also scrutinized after the shooting, and while his social isolation had been noted, we did not find evidence that concerns had been brought to the attention of a public authority.

Tule River Reservation, CA, 12/8/2012: The shooter killed his mother and two uncles in the travel trailer where they lived and injured his young son; he then shot his two daughters, one fatally, while fleeing with them from the police. The gunman died after a shootout with police in which he also shot himself in the head.

- **SHOOTER NAME:** Hector Celaya, 31
- **GUN DETAILS:** .38 caliber revolver
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Celaya had been imprisoned in 2008 for an assault and battery charge and was prohibited from having weapons as a condition of three years' probation. It is likely that this criminal record prohibited him from possessing firearms. He was subsequently arrested multiple times for driving while intoxicated, and was due in court in January 2013 to face a misdemeanor drug possession charge.

Detroit, MI, 12/4/2012: Three adults and one minor were shot to death in a house on the east side of the city before a fire broke out, apparently set by the shooter. There are no reports of arrests or suspects.

- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The assailants are unknown.

Northridge, CA, 12/02/2012: The shooter arrived at an unlicensed boarding house on Devonshire street, reportedly in search of his girlfriend, and after a dispute shot and killed four people



Analysis of Recent MASS SHOOTINGS

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outside.

- **SHOOTER NAME:** Ka Pasasouk, 31
- **GUN DETAILS:** semiautomatic handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was prohibited from possessing guns, having been convicted for car theft and felony robbery. While on probation in September 2012, he was arrested again for possession of methamphetamine. According to the district attorney, a prosecutor then released him on probation over the objection of probation officials, who believed he posed a threat to the safety of the community.
- **NOT A GUN-FREE ZONE:** Permit holders were not prohibited from carrying guns in this area.

New Town, ND, 11/18/2012: The shooter murdered a woman and her three grandchildren in their home on Fort Berthold Indian Reservation. When confronted by police he stabbed himself in the neck and died of his injuries.

- **SHOOTER NAME:** Kalcie Eagle, 21
- **GUN DETAILS:** .25-06 hunting rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The rifle did not belong to the shooter; police speculated that it may have belonged to a family member.
- **PROHIBITING CRITERIA:** In March 2012, Eagle was arrested in a stolen pickup truck after a high-speed chase with police. He pled guilty to felony unauthorized use of a vehicle, and was sentenced to a year in jail, with more than three years of supervised probation and more than \$45,000 in fines and restitution. Because of this offense, he was likely prohibited from possessing a firearm.

Minneapolis, MN, 9/27/12: The shooter killed six people and injured two at a signage business, from which he was fired earlier in the day, before killing himself.

- **SHOOTER NAME:** Andrew John Engeldinger, 36
- **GUN DETAILS:** Glock 9mm semiautomatic handgun
- **AMMO DETAILS:** Engeldinger fired at least 46 bullets during the shooting. At his home, police recovered packaging for 10,000 rounds of ammunition.
- **GUN ACQUIRED:** Engeldinger purchased the gun used in the shooting one year before at KGS Guns and Ammo in Minneapolis after passing a background check and obtaining a permit-to-purchase. Around the same time, Engeldinger purchased another, similar handgun that police recovered when searching his home.
- **PROHIBITING CRITERIA:** Engeldinger had a concealed carry permit and was not prohibited from possessing a gun. But his family suspected he had paranoid schizophrenia and two years before the shooting they reached out on his behalf to the National Alliance on Mental Illness. Engeldinger did not pursue treatment.
- **ONLINE CONNECTION:** According to Minneapolis Police, Engeldinger may have purchased some or all of his stockpiled ammunition online from out-of-state dealers.



Oak Creek, WI, 8/5/12: The shooter killed six people at a Sikh temple and injured three others, including a responding police officer, before killing himself.

- **SHOOTER NAME:** Wade Michael Page, 40
- **GUN DETAILS:** 9mm semiautomatic handgun
- **AMMO DETAILS:** Page reportedly bought three 19-round magazines when he purchased the gun.
- **GUN ACQUIRED:** Page acquired the gun at a local gun shop a week before the shooting.
- **PROHIBITING CRITERIA:** Page was involved with the white supremacist movement but he does not appear to have been prohibited from purchasing a gun. He received a discharge from the army “under other than honorable conditions” and was demoted from sergeant to specialist, but this did not affect his access to firearms. Federal officials investigated Page’s ties to supremacist groups more than once prior to the shooting, but did not collect enough evidence to open an investigation.
- **NOT A GUN-FREE ZONE:** Nothing restricted the possession of a firearm on the property. Wisconsin state law permits people to carry their guns in temples and other places of worship unless there is a sign or they have been personally notified that carrying firearms is prohibited by the property owner or occupant. Amardeep Kaleka, whose father founded the temple and was killed during the attack, confirmed that there was no such sign on the property.

Aurora, Co, 7/20/12: The shooter killed twelve and wounded fifty-eight in an attack on a suburban movie theater during a midnight screening of Batman.

- **SHOOTER NAME:** James Holmes, 24
- **GUN DETAILS:** Smith & Wesson AR-15 assault-style rifle, Remington 870 12-gauge shotgun, and two Glock .40 caliber handguns.
- **AMMO DETAILS:** Holmes had a 100-round drum magazine for the AR-15 and reportedly only ceased firing with it when it jammed.
- **GUN ACQUIRED:** Holmes acquired the guns at local gun shops.
- **PROHIBITING CRITERIA:** While a student at the University of Colorado, Holmes was treated by the school psychiatrist, who expressed concern about his behavior and referred him to the university Behavioral Evaluation and Threat Assessment (BETA) team. They took no further action and he was never adjudicated mentally ill.
- **ONLINE CONNECTION:** Holmes purchased over 6,000 rounds of ammunition online.

Newton Falls, OH, 7/6/12: The shooter killed his girlfriend, another couple, and their son in two separate shootings, before being cornered by the police and killing himself.

- **SHOOTER NAME:** Robert Brazzon, 55
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Brazzon had previously pled guilty to felony drug trafficking after police seized 47 guns from his home in 1999 (the guns were later returned to Brazzon’s brother and son following a



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court petition). But due to Ohio laws that provide for the restoration of felons' firearm rights, it is unclear whether Brazzon was prohibited from possessing firearms at the time of the shooting.

Tempe, AZ, 6/2/2012: The shooter killed his wife and three children inside of their home, then drove the bodies to a location in the Vekol Valley desert, where he lit the car on fire and shot himself. His wife had filed for a divorce earlier in the year but he had not vacated their shared residence. He was also reportedly undergoing treatment for a brain tumor.

- **SHOOTER NAME:** James Butwin, 47
- **GUN DETAILS:** Two guns were recovered in the vehicle, and the caliber of the shells for one matched those found in the house where the murders took place.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that Butwin was prohibited from owning a gun.

Seattle, WA, 5/20/12: The shooter killed five people in a string of neighborhood shootings that began in a coffee shop, and later killed himself.

- **SHOOTER NAME:** Ian Lee Stawicki, 40
- **GUN DETAILS:** At least one Para-Ordnance .45 caliber handgun – some reports say he carried two.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Stawicki legally purchased the weapon used in the shooting in addition to two others.
- **PROHIBITING CRITERIA:** The shooter was a concealed carry permit holder but had a history of mental illness and arrests. He was twice charged with misdemeanor assault but both cases were dismissed when the victims — his girlfriend and brother — refused to testify. Before the shooting, Stawicki's family attempted to have his concealed carry permit revoked. Stawicki's family had become concerned that his mental health had worsened. However, his family was rebuffed by authorities, who said they had no legal basis to revoke Stawicki's permit on claims about Stawicki's behavior alone.

Leivasy, WV, 5/19/2012: The shooter killed a man after a dispute over a debt for drugs, as well as his girlfriend and their two children.

- **SHOOTER NAME:** James Roy Belknap, 27
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In 2007, Belknap pled guilty on charges of conspiracy to deliver cocaine and was sentenced to 5 years in prison. In exchange, prosecutors dismissed a grand jury indictment charging him with murder. He was therefore prohibited from possessing a gun.



Port St. John, FL, 5/15/12: The shooter attacked her four children — ages 12 to 17 — in her home, killing them before shooting and killing herself. An autopsy indicated that she had a blood alcohol level of .16 at the time of the shooting — twice the legal limit.

- **SHOOTER NAME:** Tonya Thomas, 33
- **GUN DETAILS:** Taurus .38 caliber revolver
- **AMMO DETAILS:** She fired 18-hollow-point rounds during the incident, reloading the gun three times.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence she was prohibited from possessing a gun. The shooter was charged with misdemeanor battery in 2002 for striking the father of her children but it was later dropped.

Gilbert, AZ, 5/2/12: The shooter, formerly a member of the U.S. Marine Corps and a founder and leader of a border militia group, shot and killed four people including his girlfriend, before killing himself. At the time of the incident he was running for the office of Pinal County Sheriff.

- **SHOOTER NAME:** Jason Todd ("J.T.") Ready, 39
- **GUN DETAILS:** At least two handguns and a shotgun were recovered from the scene. Six-armor piercing grenades, which may not legally be possessed by civilians, were also recovered.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning guns, even though he had a record of dangerous behavior. In 1992, he was arrested for damage to property and aggravated assault with a weapon and pled guilty to simple assault, a misdemeanor. He was court-martialed twice during his military service, the second resulting in a bad conduct discharge in 1996. In 2009, a woman filed an order of protection against him, but it was not active at the time of the shooting. Officers had also responded to multiple domestic violence calls from Ready's home. Indeed, his girlfriend went to police headquarters on February 28, 2012 to make a complaint and report two domestic violence incidents, but she did not go to court to file for an order of protection.

Oakland, CA (Oikos University), 4/2/12: The shooter killed seven people at a Korean Christian college, where he had formerly been a student.

- **SHOOTER NAME:** One L. Goh, 43
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Goh was armed with four magazines of ammunition, holding 10 rounds each.
- **GUN ACQUIRED:** The gun was purchased legally in California two months before the shooting.
- **PROHIBITING CRITERIA:** None apparent, though Goh was expelled from the school for disciplinary problems.

Norcross, GA, 2/20/12: The shooter returned to a Korean spa from which he'd been kicked out after an altercation, where he shot and killed two of his sisters and their husbands before commit-



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ting suicide.

- **SHOOTER NAME:** Jeong Soo Paek, 59
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Police reported that he acquired the gun legally.
- **PROHIBITING CRITERIA:** Paek does not appear to have been prohibited, although he had allegedly served two months in jail for assaulting his sister six years earlier. In 2006 she applied for a temporary protection order and described his intention to harm himself or others with guns.
- **NOT A GUN-FREE ZONE:** We could find no indication that the property owner forbade possession of a firearm on their property.

Villa Park, IL, 1/17/2012: The shooter killed his girlfriend, her two sons, and her niece while they slept. After leaving the scene of the crime he shot himself and died of his injuries.

- **SHOOTER NAME:** Cedric Anderson, 42
- **GUN DETAILS:** .357 Magnum handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Anderson has several drug-related offenses dating back to 1990, and in 2008 received probation for possessing a firearm without the required license. On December 29, 2011 was convicted of felony heroin possession, and was awaiting sentencing at the time of the massacre. He was therefore prohibited from possessing a gun.

Grapevine, TX, 12/25/11: The shooter killed his estranged wife, two children, and three other family members as they opened their Christmas presents, before killing himself. The shooter's wife had filed for bankruptcy in August 2010 and reportedly separated from him during the proceedings, moving to the apartment complex where the shooting took place.

- **SHOOTER NAME:** Aziz Yazdanpanah, 56
- **GUN DETAILS:** 9mm and .40 caliber handguns
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The 9mm was purchased in 1996 and registered to the shooter.
- **PROHIBITING CRITERIA:** In 1996, the shooter pled guilty to one count of subscribing to a false income tax return, and was fined \$1000 and placed on three years' probation. But police said the 9mm was legally registered to the shooter and there is no evidence that he was otherwise prohibited from purchasing a gun.

Emington, IL, 12/16/2011: The shooter killed her boyfriend and her three children before taking her own life in the backyard of their home.

- **SHOOTER NAME:** Sara McMeen, 30



- **GUN DETAILS:** Semi-automatic pistol
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from owning a gun. But she reportedly suffered from bipolar disorder and postpartum depression, and did not take any medication. She also had a family history of mental illness and violence. In 1971, McMeen's father shot and killed his wife with a 12-gauge shotgun. He was found not guilty by reason of insanity, and diagnosed with schizophrenia with suicidal and homicidal tendencies.

Gargatha, VA, 12/15/11: The shooter killed two of his children, their mother, and the man she was living with before killing himself. The shooter was reportedly involved in a custody dispute with the woman at the time of her death.

- **SHOOTER NAME:** Esteban Quintero-Gonzales, 37
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Bay City, TX, 11/30/11: The shooter and his wife argued in their mobile home, and when she exited he shot her three times in the front yard, injuring her, before killing his four children aged 2 to 5 and then killing himself.

- **SHOOTER NAME:** Jose Avila-Alva, 24
- **GUN DETAILS:** .22 caliber revolver
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The handgun was reported stolen in 2010.
- **PROHIBITING CRITERIA:** The shooter was not a legal resident of the U.S., and had been deported to Mexico in 2006 for unlawful entry, which would have prohibited him from purchasing a gun. One week earlier, on November 22, 2011, the shooter's wife filed an assault report against him and was taken to a crisis center by police, but she did not press charges.

Greensboro, NC, 11/20/2011: The shooter shot and injured a married man she had been having an affair with since 2008, injuring him. At some point that morning she also shot four children in her house, including her older son, a niece, a nephew, and a friend, and they all died of their injuries. She then picked up her son from a sleepover, shot and killed him, and turned the gun on herself.

- **SHOOTER NAME:** Mary Ann Holder
- **GUN DETAILS:** .38 caliber handgun



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- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun. The wife of the man the shooter was having an affair with sought a restraining order against her earlier in 2011; the shooter responded by requesting a restraining order against the man and his wife. Both orders had expired.

Liberty, SC, 10/14/11: The shooter killed her ex-husband, two sons, and their step-grandmother. When investigators arrived, she told them one of her sons had committed the homicides and then killed himself, but this story was inconsistent with forensic evidence. Nine days after the shooting she was taken into custody and charged with four counts of homicide. She had reportedly taken out a \$700,000 life insurance policy for her family members with herself named as the beneficiary.

- **SHOOTER NAME:** Susan Diane Hendricks, 48
- **GUN DETAILS:** .380 caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In April 2006, Susan Hendricks shot and killed Doyle "O'Brian" Teague in her home after he had allegedly entered uninvited and threatened her. No charges were filed against Hendricks at the time, and the case was never closed. There is no evidence that she was prohibited from possessing a gun in 2011.

Seal Beach, CA, 10/12/11: The shooter injured one and killed eight at a hair salon, including his ex-wife, before being taken into police custody.

- **SHOOTER NAME:** Scott Evans Dekraai, 41
- **GUN DETAILS:** Dekraai carried 3 handguns – a 9 mm Springfield, a Heckler & Koch .45, and a Smith & Wesson .44 Magnum – and used at least two in the shooting.
- **AMMO DETAILS:** News articles say Dekraai was carrying "extra ammunition" when the shooting began.
- **GUN ACQUIRED:** All three guns were purchased legally and registered in accordance with California law.
- **PROHIBITING CRITERIA:** Dekraai was subject to a restraining order that specifically prohibited him from possessing guns, but the order expired in 2008. Dekraai had been diagnosed with Post Traumatic Stress Disorder, and during a custody suit his ex-wife had filed court papers claiming that he was mentally unstable and had threatened to kill himself or someone else at least once.

Laurel, IN, 9/26/11: The shooter killed a man, the man's estranged wife, their two children, and a neighbor. The male victim reportedly had sold the addictive pain-reliever Oxycontin to the shooter, and on the day of the murders they had argued over the price.

- **SHOOTER NAME:** David E. Ison, 46



- **GUN DETAILS:** A .380 caliber handgun was used in the slayings. Another stolen .380 handgun and an AK-47 were recovered during the investigation.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter had a lengthy criminal record, including a conviction for armed robbery, which would have prohibited him from possessing a gun, and at the time of the murders was on probation for 10 counts of burglary.

Monongalia County, WV, 9/6/2011: The shooter killed five people and injured one before fleeing from the police and then killing himself.

- **SHOOTER NAME:** Shayne Riggleman, 22
- **GUN DETAILS:** A .30-.30 rifle was used. A second rifle and a .22 caliber pistol were also recovered.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In 2008, Riggleman was sentenced to 14 months in prison for armed robbery, an offense that would prohibit him from possessing firearms, though it is possible his rights were restored under West Virginia law. He had also been diagnosed with bipolar disorder and schizophrenia at Chestnut Ridge Hospital and his family had him committed on several occasions.

Carson City, NV (IHOP Shooting), 9/6/2011: The shooter killed four people at an IHOP restaurant, including three National Guard members, before killing himself.

- **SHOOTER NAME:** Eduardo Sencion, 32
- **GUN DETAILS:** A Norinco Mak 90 assault rifle that had been illegally modified into a fully automatic machine gun. A Romarm/Cugir AK-47 type assault rifle and a Glock 26 semiautomatic handgun were also recovered.
- **AMMO DETAILS:** Police recovered 450 rounds of AK-47 ammunition from Sencion's van and "box upon box" of additional ammunition at his home.
- **GUN ACQUIRED:** Five years earlier, the gun had been sold by a private party in California to an unknown buyer.
- **PROHIBITING CRITERIA:** Sencion was taken into protective custody during a mental health commitment in April 2000 but no court order was involved and it remains unclear if a record of the incident was reported to the NICS database.
- **NOT A GUN-FREE ZONE:** IHOP allows individual franchises to determine their own firearm policies, and this franchise allows concealed carrying of firearms on the premises.

Marion County, FL, 8/5/11: The shooter killed the mother of his child in her mother's home, his own 6-year-old sister, and two other acquaintances before setting the building on fire. Court records indicated he had smoked synthetic marijuana laced with cocaine prior to the murders. The gun was not immediately recovered.



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- **SHOOTER NAME:** James Edward Bannister, 31
- **GUN DETAILS:** Believed to be a .38 caliber revolver
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that he had a prohibiting criminal record.

Wheatland, WY, 7/30/11: The shooter killed his three sons and his brother and shot and injured his wife before surrendering to police. His wife later reported he had become upset because he wanted to keep the curtains of their home drawn to prevent the neighbors from looking inside.

- **SHOOTER NAME:** Everett E. Conant III
- **GUN DETAILS:** Two semiautomatic handguns were used in the shooting. A shotgun and a rifle were also recovered.
- **AMMO DETAILS:** Police testified that about 50 rounds were fired during the incident.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The police reported that the shooter did not have a criminal record. There is no evidence to indicate he was prohibited from possessing a gun.

Wagener, SC, 7/3/2011: The shooter apparently went on a murder-suicide rampage, killing his wife, her twin sister, his mother-in-law, and his ex-girlfriend in two different residences before he was confronted by law enforcement and shot himself.

- **SHOOTER NAME:** Kenneth Myers, 47
- **GUN DETAILS:** A 20-gauge shotgun was used in the massacre. Myers owned numerous weapons including an SKS, AK-47, two 9 mm handguns, a .22 caliber revolver, and a .38 caliber snub-nose pistol.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning a gun. However, he reportedly had a history of violence, having threatened his mother-in-law with a rifle. In a suicide note, he blamed his wife's family for contributing to her drug problem.

Grand Prairie, TX, 6/23/11: The shooter killed his wife and four of her family members at his daughter's birthday party before killing himself.

- **SHOOTER NAME:** Tan Do, 35
- **GUN DETAILS:** Reported to be a handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Tan Do had a history of domestic violence. His wife had obtained a protective order against him but had withdrawn it earlier that year against the advice of a prosecutor.



Medford, NY, 6/9/11: The shooter killed four people at a pharmacy, Haven Drugs, and stole thousands of hydrocodone pills before fleeing in a vehicle. During the trial he acknowledged that he and his wife were addicted to prescription medication.

- **SHOOTER NAME:** David Laffer
- **GUN DETAILS:** A .45 caliber handgun was used in the shooting. Several other legally registered guns were also recovered from the shooter's home.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The gun was legally registered to the shooter, and there is no evidence he was prohibited from possessing a gun. But five months before the shooting, Suffolk County Detective Kenneth Ripp investigated an identity theft claim made by the shooter's mother, who said the shooter had stolen her debit card. After questioning the shooter and his mother, Ripp advised the Suffolk County Pistol License Bureau that the shooter was dangerous and that his guns should be confiscated. Despite Ripp's report, the guns were not removed.
- **GUN-FREE ZONE:** We could find no evidence that Haven Drugs posted a sign or had a policy prohibiting the carrying of firearms. Current employees declined to comment.

Yuma, AZ, 6/2/11: In a series of separate shootings over a five-hour period, a gunman shot and killed his ex-wife, three of her friends, and her attorney, before killing himself.

- **SHOOTER NAME:** Carey H. Dyess, 73
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Dyess's ex-wife alleged there had been domestic abuse and a judge had issued an order of protection against him in 2006, but there is no evidence that he was prohibited from possessing firearms at the time of the shooting.

Ammon, ID, 5/11/11: The shooter killed his two infant children, their mother, and her sister before setting fire to the house and shooting himself. He had separated from the victim several months before the incident, and in the week before the shooting he had sent her harassing text messages.

- **SHOOTER NAME:** Gaylin Leirmoe
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Eight shots were fired during the shooting.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In October 2009, the shooter was charged with misdemeanor battery for domestic violence with no traumatic injury after hitting his girlfriend — the woman he would ultimately kill — at her birthday celebration. The charges were later dismissed. There is no evidence that he was prohibited from possessing a gun.



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Oak Harbor, Ohio, 4/16/11: The shooter killed his wife and three children, age 1 to 4, before killing himself.

- **SHOOTER NAME:** Alan Atwater
- **GUN DETAILS:** .22 caliber rifle, shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter and his wife separately reported to friends that in the past he had held her against a wall and choked her. But there is no evidence he was prohibited from possessing a gun.

Willowbrook, CA, 2/11/11: Two brothers, their uncle, and their cousin were shot and killed by an unknown assailant on the patio of their home.

- **SHOOTER NAME:** Unknown
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Witnesses reported that the shooting was loud and continuous. Police believe a semiautomatic weapon was used.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The assailant is unknown.

Minot, ND 1/28/11: The shooter, a Somali national, killed the mother of his child at her home — and then her brother, her mother, and her mother's boyfriend at a nearby home. The murder weapon was never recovered.

- **SHOOTER NAME:** Omar Mohamed Kalmio, 28
- **GUN DETAILS:** Believed to be a handgun.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In 2006, Kalmio was convicted of second-degree assault with a dangerous weapon and sentenced to a year in prison, which offense prohibited him from legally possessing a firearm.

Tucson, AZ, 1/8/11: The shooter attacked a constituent event hosted by Congresswoman Gabrielle Giffords, killing six and wounding fourteen, including Giffords, before he was subdued.

- **SHOOTER NAME:** Jared Loughner, 22
- **GUN DETAILS:** 9mm Glock 19 semiautomatic handgun
- **AMMO DETAILS:** 33-round magazine
- **GUN ACQUIRED:** Loughner passed a background check and purchased the Glock handgun at Sportsman's Warehouse in Tucson two months before the attack. Loughner also purchased a Harrington & Richardson shotgun in 2009; this gun was not used in the attack.



- **PROHIBITING CRITERIA:** Loughner had a history of mental illness and drug use. He was rejected from Army enlistment in 2008 after failing a drug test and admitting to drug use on his U.S. Army medical history application form, which should have prohibited Loughner from buying a gun for at least one year. However, Loughner successfully purchased a Harrington & Richardson shotgun in 2009, within a year of his Army rejection. Loughner's purchase of the Glock 19 handgun in 2010 violated the plain intent of federal law, which prohibits someone considered an/to be "unlawful user of or addicted to any controlled substance" from purchasing a gun, but the purchase was still allowed under current enforcement practices. Loughner was also suspended from Pima Community College in 2010 for erratic behavior, and exhibited other signs of mental instability in posts to websites.
- **NOT A GUN-FREE ZONE:** It was lawful to carry a firearm in the area of the shooting. An armed bystander, Joe Zamudio, mistook someone else as the shooter and prepared to fire on him before he was stopped by other bystanders.

Boston, MA, 09/28/10: The shooter killed four and wounded one during a drug-related robbery.

- **SHOOTER NAME:** Edward Washington, 33, and Dwayne Moore, 35, were both charged in the killings. Washington was acquitted. In Moore's first trial, the jury deadlocked 11-1 in favor of his guilt, but he was later convicted in a retrial.
- **GUN DETAILS:** .40 caliber Iberia handgun and 9mm Cobray semiautomatic. The Cobray has not been recovered, but the weapon was identified based on recovered bullets and shell casings.
- **AMMO DETAILS:** 14 rounds fired
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooters were prohibited from possessing guns.
- **NOT A GUN-FREE ZONE:** Any person holding the appropriate license could lawfully carry a firearm in this area. As of 2012 there were an estimated 250,000 concealed weapons permit holders in Massachusetts, and neither state or local law prohibits them from carrying in the city of Boston.

Riviera Beach, FL 9/27/10: The shooter killed his estranged wife and four of his stepchildren in their home, injured one other, and then shot and killed himself.

- **SHOOTER NAME:** Patrick Dell, 41
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** In May 2010, the shooter's wife obtained a restraining order, which was active at the time of the shooting and would have prohibited him from owning a gun. In December 2009, Dell has also been arrested on felony aggravated assault, and had been convicted of misdemeanor improper exhibition of a dangerous firearm. Police had responded to 34 calls from the household in the four years preceding the shooting. In April 2008, the shooter's wife had taken out another restraining order against Dell for abusive behavior.

Jackson, KY, 9/10/10: The shooter, reportedly enraged at how his wife prepared his eggs, fatally



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shot her, his stepdaughter, and three neighbors. He killed himself when the police arrived.

- **SHOOTER NAME:** Stanley Neace, 47
- **GUN DETAILS:** Shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Chicago, IL, 9/2/10: The shooter murdered four individuals execution-style in a garage on South Kildare Avenue. Officials believe he was part of a drug-trafficking crew that had been involved in at least 10 other killings.

- **SHOOTER NAME:** Raul Segura-Rodriguez, 36
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** While the shooter was reportedly an experienced criminal, there is no evidence of convictions that would have prohibited him from possessing a gun.

Lake Havasu City, AZ, 8/29/10: The shooter killed his ex-girlfriend, her boyfriend, and three others while they were celebrating her boyfriend's birthday and took his own life later that night.

- **SHOOTER NAME:** Brian Diez, 26
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The gunman's girlfriend had taken out a restraining order against him earlier that year, which would likely prohibit him from purchasing or possessing a gun.

Buffalo, NY, 8/14/10: The shooter opened fire on a group of people outside a bar, killing four and wounding four others.

- **SHOOTER NAME:** Riccardo McCray, 24
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** McCray had been arrested earlier that year on felony drug charges and the previous year for having a loaded rifle in his car. If he was found guilty of either crime, he would have been prohibited from possessing firearms.
- **NOT A GUN-FREE ZONE:** We could find no indication that it was unlawful to carry a firearm in the area.



There are an estimated 100,000 concealed weapon permit holders in New York and other than limiting a person's ability to carry when he is under the influence of drugs or alcohol, Buffalo does not add any additional requirements to state law.

Lanham, MD, 8/6/10: The shooter killed two children, their mother, and their paternal aunt in the home where they resided. Police said the shooter was involved in drug trafficking and the victims owed him money.

- **SHOOTER NAME:** Darrell Lynn Bellard
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that he was prohibited from possessing a gun.

Manchester, CT, 8/3/10: The shooter killed eight coworkers at a beer distributor and wounded two others before killing himself.

- **SHOOTER NAME:** Omar Thornton, 34
- **GUN DETAILS:** Two Ruger SR9 9mm handguns
- **AMMO DETAILS:** The shooter allegedly carried two extra magazines and two extra boxes of ammunition with him to the attack.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no indication that he was prohibited from possessing firearms and the guns he used were registered to him.

Hialeah, FL, 6/6/10: The shooter killed four women, including his wife — who had just separated from him. He injured three others before shooting and killing himself. The shooting occurred in Yoyito-Cafe Restaurant, where the shooter's wife was employed as a waitress, and in the parking lot immediately outside.

- **SHOOTER NAME:** Gerardo Regalado, 38
- **GUN DETAILS:** .45 caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The shooter had a concealed weapons permit.
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning a gun. However, relatives said the shooter had abused and terrorized women in the past, and had been imprisoned in Cuba for a particularly violent incident, but he did not have a criminal record in the United States.
- **NOT A GUN-FREE ZONE:** We could find no indication that guns were prohibited in this area. Guns are prohibited in Florida restaurants only in areas primarily devoted to the serving of alcohol.



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Chicago, IL, 4/14/10: The shooter who had converted to Islam in prison killed his family for not going along with his conversion, fatally shooting his mother, pregnant wife, infant son, and two nieces, and injuring one other.

- **SHOOTER NAME:** James A. Larry, 33
- **GUN DETAILS:** Shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Larry was almost certainly prohibited from purchasing a gun, having recently served a prison term for a weapons charge. He had also recently pled no contest to misdemeanor battery against his wife.

Los Angeles, CA, 4/3/10: The shooter killed four and injured two at a San Fernando Valley restaurant after a dispute with other patrons. He was indicted in a separate investigation for engaging in the business of dealing firearms without a license and possession of a firearm with an obliterated serial number, having sold firearms to an informant working for federal agents the previous year.

- **SHOOTER NAME:** Nerses Arthur Galstyan, 28
- **GUN DETAILS:** Unspecified handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Washington, DC, 03/30/10: Three gunmen killed four and wounded five in retaliation for another murder.

- **SHOOTER NAME:** Nathaniel D. Simms, 26; Orlando Carter, 20, and unnamed 14-year-old juvenile.
- **GUN DETAILS:** An AK-47 assault rifle and 9mm and .45-caliber handguns
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The adults were reported to have lengthy criminal histories, which prohibited them from purchasing guns, and the 14-year-old was too young to purchase or own a gun.
-

New Orleans, LA, 3/26/10: The shooter killed his ex-girlfriend, her sister, and two children.

- **SHOOTER NAME:** Damian Jordan, 22
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Unknown



- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Jordan was likely prohibited from possessing a gun due to a lengthy history of domestic abuse, though he had repeatedly pled down the crimes to simple battery.

Appomattox, VA, 1/19/10: The shooter killed eight family-members and acquaintances and fired at responding police officers – even forcing a helicopter to make an emergency landing – before surrendering. He wore a bulletproof vest during the attack.

- **SHOOTER NAME:** Christopher Speight, 39
- **GUN DETAILS:** High-powered rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was a concealed carry permit holder and was not prohibited from possessing a gun.

Bellville, TX, 1/16/10: The shooter, angered after a household argument, fatally shot his mother, stepfather, sister, brother and niece.

- **SHOOTER NAME:** Maron Thomas, 20
- **GUN DETAILS:** Handgun and shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Madison, WI, 12/3/2009: The shooter killed two women with whom he was involved in paternity cases, along with their daughters, before shooting himself in his car.

- **SHOOTER NAME:** Tyrone Adair, 38
- **GUN DETAILS:** Two handguns were found inside the vehicle where Adair died, one of which matched the caliber of the ammunition used in the murders.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Police report that Adair bought a 9mm gun that was advertised on Craigslist. This gun was likely transferred in a private sale.
- **PROHIBITING CRITERIA:** The shooter was prohibiting from possessing firearms due to an active restraining order involving a third woman. He had also been arrested in March 2009 after a domestic incident, but charges were not filed in that case.

Lakewood, WA, 11/29/09: The shooter killed four police officers in a Tacoma Coffee shop, eluding police for two days before being killed as he fled.



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- **SHOOTER NAME:** Maurice Clemmons, 37
- **GUN DETAILS:** When he was killed, he was in possession of the handgun of one of the officers he had killed.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was prohibited from purchasing a firearm, having been charged with at least 13 felonies across two states. He had posted bail for raping a child just six days before the attack.
- **NOT A GUN-FREE ZONE:** The police officers were armed at the time of the shooting.

Osage, KS, 11/28/09: The shooter killed his estranged wife, her grandmother, and his two daughters in their home.

- **SHOOTER NAME:** James Kahler, 46
- **GUN DETAILS:** Assault rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Kahler was charged with a misdemeanor domestic violence assault in March 2009. If convicted, he would have been prohibited from purchasing a firearm.

Jupiter, FL, 11/26/09: The shooter killed his two twin sisters, his aunt, and his cousin's daughter, and injured two other family members, during a Thanksgiving celebration. He eluded capture for over a month before authorities apprehended him.

- **SHOOTER NAME:** Paul Merhige, 40
- **GUN DETAILS:** He used at least two handguns during the shooting.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Purchased at least six guns (including a .22 caliber handgun and a .40 caliber semi-automatic handgun), a high-powered rifle with a scope, and ammunition from two gun stores in South Florida.
- **PROHIBITING CRITERIA:** The shooter was involuntarily committed to mental health facilities at least three times in the decade before the killing, which prohibited him under federal law from possessing guns. But his records were not submitted to the NICS database. His parents reportedly knew he had ceased taking prescribed psychotropic medication in the weeks leading up the shooting. In addition, his sister Carla Merhige had requested a restraining order against him in 2006, but later withdrew the request. The shooter was able to obtain a concealed weapons permit.

Pearcy, AR, 11/12/09: Three shooters killed five people in their mobile homes and stole wheel rims, televisions, a handgun, and a vehicle. One of the shooters injured a police officer while he was being apprehended several days later.

- **SHOOTER NAME:** Samuel Conway, Marvin Lamar Stringer, and Jeremy Pickney
- **GUN DETAILS:** .22 and .25 caliber handguns



- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooters were prohibited from possessing guns.

Oklahoma City, OK, 11/9/2009: The shooter or shooters killed four people in a house before setting the building on fire. Two of the victims were pregnant. The crime was premeditated by two conspirators, and related to drugs they sold for one of the victims. It is unclear whether just one or both of the conspirators were present for the shooting, but both were charged with six counts of murder. Tyner surrendered to authorities a week after the killings. Phillips was arrested in Tulsa in April 2010 after allegedly attempting to sell two guns stolen from a police sergeant's home.

- **SHOOTERS:** David Allen Tyner (pled guilty), 31 and Denny Edward Phillips (pled not guilty), 34
- **GUN DETAILS:** Handgun
- **AMMO DETAILS:** Two types of bullet cases were recovered at the crime scene.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Phillips was prohibited due to a lengthy criminal history including multiple felony convictions. Phillips was convicted in 1996 for assault with a deadly weapon, and other crimes including a jail escape. He was also convicted in 2010 for possession of a firearm by a felon. He was also convicted of aggravated assault and battery. There is no indication that Tyner was prohibited, though he was reportedly a member of a prison gang.

Fort Hood, TX, 11/5/09: The shooter killed thirteen and wounded thirty soldiers during an attack at the Fort Hood army base.

- **SHOOTER NAME:** Nidal Malik Hasan, 39
- **GUN DETAILS:** A FN Five-seven handgun was used in the attack. A Smith and Wesson .357 revolver also recovered.
- **AMMO DETAILS:** Hasan fired at least 220 rounds of ammunition and had 200 rounds in his pocket when he was detained.
- **GUN ACQUIRED:** Purchased legally at a local gun shop, Guns Galore.
- **PROHIBITING CRITERIA:** The shooter had links with terrorist organizations, but being placed on a terror watch list does not prohibit purchase or possession of firearms under current law.

Mount Airy, NC, 11/01/09: The shooter killed four people outside a television store before eventually surrendering to the police.

- **SHOOTER NAME:** Marcos Chavez Gonzalez, 29
- **GUN DETAILS:** Assault rifle.
- **AMMO DETAILS:** Unknown



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- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was a prohibited purchaser, having been convicted of kidnapping a minor in 2002.
- **NOT A GUN-FREE ZONE:** It was lawful to carry a firearm in the area of the shooting.

Lawrenceville, GA, 08/27/09: The shooter killed his girlfriend, his daughter, and two others in a domestic dispute.

- **SHOOTER NAME:** Richard Ringold, 44
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Kansas City, KS, 6/22/09: The shooter killed a woman with whom he had been romantically linked and three others at the house where she was staying. He had argued with the woman and followed her to the house.

- **SHOOTER NAME:** Adrian Burks
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter was prohibited from possessing firearms. He had served 10 years in Kansas prisons for robbery, aggravated assault, and burglary. He also fatally shot a man in March 2009, but he was not charged in the incident, which his cousin later described as “self defense.” In April 2009, he was charged with battery and a criminal threat against the sister of the man he killed and was ordered not to possess firearms.

Middletown, MD, 04/19/09: The shooter killed his wife and three children in their home before committing suicide.

- **SHOOTER NAME:** Christopher Alan Wood, 34
- **GUN DETAILS:** .25-caliber handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.
- **GREEN HILL, AL, 4/7/2009:** The shooter killed his estranged wife, their teenage daughter, and two other relatives one day before his divorce proceedings were scheduled to take place. He then lit the house on fire and shot himself.
- **SHOOTER NAME:** Kevin Garner, 45



- **GUN DETAILS:** handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from owning a gun. In divorce documents, however, his wife cited physical and emotional abuse.

Graham, WA, 4/4/2009: After a dispute with his wife in which she told him she was ending their relationship, the shooter returned home and killed his five children. Police believe he then made an unsuccessful attempt to find his wife again and then killed himself in his car.

- **SHOOTER NAME:** James Harrison
- **GUN DETAILS:** Unspecified rifle
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence Harrison was prohibited from possessing a gun. Since 2001 the state had received five complaints about the shooter, including one for abuse in 2007 that stemmed from a slapping incident with one of his children. None of the complaints resulted in a domestic violence conviction. After the shooting, his wife said that she and her children had sustained years of abuse.

Binghamton, NY, 4/3/09: The shooter killed fourteen and wounded four at the American Civic Association where he had been taking English classes before killing himself. He wore a bullet-proof vest during the attack.

- **SHOOTER NAME:** Jiverly A. Wong, 42
- **GUN DETAILS:** 9mm and .45 caliber Beretta handguns.
- **AMMO DETAILS:** Allegedly fired 98 rounds during the attack. At least one magazine with a 30-round capacity was recovered at the scene.
- **GUN ACQUIRED:** The guns were registered to his New York State pistol license.
- **PROHIBITING CRITERIA:** Wong was not prohibited from possessing a gun, and had a New York State concealed carry permit. People who knew Wong said he exhibited no outward signs of mental instability, although a letter he wrote that was delivered to a newspaper after the shooting indicated he was paranoid and suffering from mental illness.

Carthage, NC, 3/29/09: The shooter opened fire at a nursing home where his estranged wife worked, killing eight and injuring three before he was shot and arrested by a police officer.

- **SHOOTER NAME:** Robert Stewart, 45
- **GUN DETAILS:** .357 Magnum handgun and Winchester 1300 shotgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** The guns were acquired legally from a local sporting good store.



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- **PROHIBITING CRITERIA:** There is no indication the Stewart was prohibited from possessing a gun.

Santa Clara, CA, 3/29/09: The gunman killed five family members and wounded two in an apparent murder-suicide.

- **SHOOTER NAME:** Devan Kalathat, 45
- **GUN DETAILS:** Two .45 caliber pistols
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Purchased legally weeks before the incident.
- **PROHIBITING CRITERIA:** There is no indication that Kalathat was prohibited from possessing a gun.

East Oakland, CA, 3/21/09: The shooter used a semiautomatic handgun to kill two police officers after they stopped his car and then fled on foot to an apartment where he killed two SWAT officers with an assault weapon and injured a third before being killed by police.

- **SHOOTER NAME:** Lovelle Mixon
- **GUN DETAILS:** 9mm semiautomatic handgun and SKS assault-style rifle
- **AMMO DETAILS:** Police said the assault weapon had a high-capacity magazine.
- **GUN ACQUIRED:** The shooter took part in a home invasion robbery in Modesto, CA, on February 21 2009 in which a rifle was reported stolen. Police did not comment on whether the stolen rifle was the one used in the shooting.
- **PROHIBITING CRITERIA:** The shooter had a lengthy criminal history, including a conviction for armed battery, which would have prohibited him from possessing a gun, and he was on parole for assault with a deadly weapon at the time of the shootings.
- **GUN-FREE ZONE:** Two of the victims were shot on a public roadway — the 7400 block of Macarthur Boulevard in East Oakland — where no state law would have prohibited a citizen with the appropriate permit to carry a gun. All of the police officers killed in the incident were armed.

Raytown, MO, 3/16/09: The gunman shot and stabbed his former girlfriend, her boyfriend, and her two nephews, killing all four.

- **SHOOTER NAME:** Gevante Anderson, 26
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Miami, FL, 3/15/09: At a birthday party, the shooter killed his estranged wife, her daughter, her daughter's boyfriend, and the boyfriend's grandmother. He then returned to his house where he set the building on fire and shot and killed himself.



- **SHOOTER NAME:** Guillermo Lopez, 48
- **GUN DETAILS:** Semi-automatic handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Catawba, NC, 3/12/09: The gunman shot and stabbed a woman and her three children in their home. He later killed himself and his girlfriend after a police chase in Utah.

- **SHOOTER NAME:** Chiew Chan Saevang, 38
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence the shooter was prohibited from possessing a gun.

Geneva County, AL, 3/10/09: The shooter killed ten, including four members of his family, before killing himself.

- **SHOOTER NAME:** Michael Kenneth McLendon, 28
- **GUN DETAILS:** Bushmaster AR-15, SKS rifle, shotgun, and .38 pistol
- **AMMO DETAILS:** Police recovered additional ammunition from his vehicle after the shooting.
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter had no criminal record and there is no indication he was prohibited from possessing a gun.
- **NOT A GUN-FREE ZONE:** It was lawful to carry a firearm in the public intersection and gas station where two of the individuals were shot.

Cleveland, OH, 3/05/09: The shooter killed his new wife and four of her relatives before committing suicide.

- **SHOOTER NAME:** Davon Crawford, 33
- **GUN DETAILS:** At least one semiautomatic handgun.
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** Crawford was likely prohibited from possessing a gun. He was convicted of manslaughter in 1995 and pled guilty to felonious assault with a firearm in 2005, though Ohio enables felons to restore their gun rights so it is possible he was no longer prohibited.

Brockport, NY, 02/14/2009: The shooter killed a nurse in the Lakeside Memorial Hospital

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parking lot and a motorist who intervened, and wounded the motorist's girlfriend. The shooter had been fired from the hospital after the nurse filed a sexual harassment complaint against him. He then drove 50 miles and killed another nurse — who had filed a similar complaint against the shooter — and her husband in their home.

- **SHOOTER NAME:** Frank Garcia, 34
- **GUN DETAILS:** .40 caliber Glock handgun
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** There is no evidence that the shooter was prohibited from owning a gun. However, he had applied for concealed carry permits and been denied three times. In his 1995 application, he omitted information about his criminal record — including arrests for criminal possession of a weapon, assault, and harassment. In 2001 and 2006 he made further omissions, and was evaluated as lacking moral character. But in 2007 a judge reversed the denial and granted Garcia a concealed weapon permit.
- **GUN FREE ZONE:** We found no indication that permit holders were prohibited from carrying guns in this area at the time of the incident.

Wilmington, CA, 1/27/09: The shooter killed his wife and their five children before killing himself.

- **SHOOTER NAME:** Ervin Lupoe, 40
- **GUN DETAILS:** Unknown
- **AMMO DETAILS:** Unknown
- **GUN ACQUIRED:** Unknown
- **PROHIBITING CRITERIA:** The shooter did not have a criminal record and there is no indication he was prohibited from possessing a gun.

1 XAVIER BECERRA
Attorney General of California
2 TAMAR PACHTER
Supervising Deputy Attorney General
3 NELSON R. RICHARDS
ANTHONY P. O'BRIEN
4 Deputy Attorneys General
ALEXANDRA ROBERT GORDON
5 State Bar No. 207650
455 Golden Gate Avenue, Suite 11000
6 San Francisco, CA 94102-7004
Telephone: (415) 703-5509
7 Fax: (415) 703-5480
E-mail:
8 Alexandra.RobertGordon@doj.ca.gov
Attorneys for Defendant
9 *Attorney General Xavier Becerra*

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
13
14

15 **VIRGINIA DUNCAN, et al.,**

16 Plaintiffs,

17 v.

18 **XAVIER BECERRA, in his official**
19 **capacity as Attorney General of the**
20 **State of California; et al.,**

21 Defendants.

17-cv-1017-BEN-JLB

DECLARATION OF PROFESSOR
DANIEL W. WEBSTER IN
SUPPORT OF DEFENDANT
XAVIER BECERRA'S
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

Date: June 13, 2017

Time: 10:00 a.m.

Dept: 5A

Judge: Hon. Roger T. Benitez

Action Filed: May 17, 2017:

1 I, Daniel W. Webster, under penalty of perjury, declare and state:

2 1. I am Professor of Health Policy and Management, Co-Director for
3 Research at the Center for the Prevention of Youth Violence, and Director of the
4 Johns Hopkins Center for Gun Policy and Research at the Johns Hopkins
5 Bloomberg School of Public Health. Additionally, I head the Johns Hopkins-
6 Baltimore Collaborative for Violence Reduction.

7 2. I began my career in public safety research in 1985 as a Research
8 Associate at the University of Michigan's School of Public Health, and have
9 devoted most of my research since then on gun-related injuries and violence. I have
10 a Master of Public Health degree from the University of Michigan and a doctorate
11 in Health Policy and Management from the Johns Hopkins School of Public Health.
12 This graduate training included many advanced courses in epidemiology, research
13 methods, and statistical analysis.

14 3. Immediately prior to joining the faculty at Johns Hopkins, I directed a
15 program on violence research at the Washington (D.C.) Hospital Center. I joined
16 the faculty of the Johns Hopkins School of Public Health in 1992, and since 2010
17 have been a tenured Professor of Health Policy and Management with a joint
18 appointment in the School of Education's Division of Public Safety Leadership. I
19 teach graduate courses on violence prevention. Previously, I taught courses in
20 research and evaluation methods at Johns Hopkins, direct the PhD program in
21 Health and Public Policy, and served on the steering committee of a pre- and post-
22 doctoral training program in violence prevention research funded by the National
23 Institutes of Health.

24 4. I have directed numerous studies related to gun violence and its
25 prevention. I have published over 100 articles in scientific, peer-reviewed journals,
26 the vast majority of these addressed some aspect of violence and/or firearm injuries
27 and their prevention. I am the lead editor of a book entitled Reducing Gun Violence
28 in America: Informing Policy with Evidence and Analysis by Johns Hopkins

1 University Press (2013), and am the lead author for two chapters and co-author on
2 three other chapters in this book. In addition, I recently served as special editor or
3 co-editor of three special issues on gun violence for top tier public health journals.
4 My curriculum vita, detailing these publications, is attached as Exhibit 1 to this
5 Declaration.

6 5. The Johns Hopkins Center for Gun Policy and Research was
7 established to conduct rigorous research into gun policy questions, look objectively
8 at all available data, and analyze and report the results. Where the data and
9 research, considered objectively, support a particular policy, we say so. Where the
10 data and research do not support a particular policy, we say that as well. Our goal
11 is not to advance any particular policy or agenda, but to use data and research to
12 inform public policy decisions.

13 6. I make this declaration on the basis of my training and expertise, the
14 research discussed below, and the work I have done in this case to date. I am being
15 compensated at \$350/hour. In the past four years I have testified as an expert in the
16 following cases:

- 17 a. *Rocky Mountain Gun Owners v. Hickenlooper*, Denver District Court
18 case 13CV33879, Case matter 2013-EXAD-076563.
19 b. *Wrenn v. District of Columbia*, Civil Action No. 15-00162 (CKK)
20 c. *Heller v. District of Columbia*, Civil Action No. 08-01289 (D.D.C.)
21 d. *Norberg v. Badger Guns, Inc.*, No. 10 CV 020655 (Circuit Court of
22 Wisconsin, Milwaukee County)
23 e. *Lopez v. Badger Guns, Inc.*, No. 10 CV 018530 (Circuit Court of
24 Wisconsin, Milwaukee County, Civil Division)
25 f. *Cook v. Hickenlooper*, Civil Action No. 13-CV-1300-MSK-MJW (D.
26 Colo.)
27 g. *Kolbe v O'Malley*, No.: 1:13-cv-02841-CCB (D. Md.)
28

1 7. There are data and good reasons to indicate that design and capabilities
2 of firearms can potentially affect the likelihood that an intended target or by-stander
3 at a shooting will be wounded as well as the severity of wounds resulting from
4 criminal shootings. Particularly relevant is the capacity of a firearm's ammunition
5 feeding device. In comparison to other magazines which feed ammunition to semi-
6 automatic firearms, large capacity magazines (LCMs)—those that hold more than
7 10 rounds—increase the number of rounds that can be fired without the shooter
8 having to take the time to reload.

9 8. A firearm's ability to accept LCMs and effectively and rapidly fire a
10 large number of rounds from LCMs are what distinguish what is commonly
11 referred to as assault weapons from other firearms. There is evidence that these
12 design features of assault weapons make them especially appealing to criminals and
13 those who commit mass shootings. A study of handgun purchasers in California
14 prior to that state's ban of assault weapons found that assault pistols were more
15 likely to be purchased by individuals with criminal histories; the more serious the
16 prior offenses, the higher the likelihood that the handgun purchased was an assault
17 pistol. The share of handguns purchased which were assault pistols was 2% if the
18 purchaser had no criminal history, 4.6% if the purchaser had a history of minor
19 criminal offenses, 6.6% for those with a previous criminal gun charge, and 10% for
20 those who had previously been charged with two or more serious violent offenses.¹
21 I conclude from this research that features of assault pistols, some of which are
22 common to assault rifles, particularly the ability accept detachable LCMs, are
23 attractive to criminals.

24 9. Efforts to ban assault weapons and LCMs have followed their use in
25 mass shootings in public places including some of the deadliest shootings in our
26

27 ¹ Wintemute, Garen J., Mona A. Wright, Carrie A. Parham, Christiana M.
28 Drake, and James J. Beaumont, Criminal activity and assault-style handguns: a
study of young adults, *Annals of Emergency Medicine* 32:44-50 (1998).

1 nation's history. Prior to the Federal ban of LCMs, these include the following
2 high-profile mass shootings:

- 3 a. The 1984 shooting at a McDonald's restaurant in California that led
4 to 21 deaths and 19 with nonfatal wounds.
- 5 b. A schoolyard shooting in Stockton, California in 1989 which killed
6 five children and left 29 others with nonfatal wounds.
- 7 c. A 1989 workplace shooting in Louisville, Kentucky which left
8 seven dead and 15 with nonfatal wounds.
- 9 d. A 1991 shooting at a diner in Killeen, Texas that left 23 dead and
10 27 more wounded.
- 11 e. A 1993 shooting of 25 people on a Long Island Railroad train, six
12 who died.
- 13 f. A shooting on April 20, 1999 at Columbine High School in
14 Littleton, Colorado in which assailants used an Intratec TEC-DC9
15 assault pistol with a LCM and other guns to murder 13 students and
16 wound an additional 23.
- 17 g. A shooting in which 76 rounds were fired to wound 70 people at a
18 crowded movie theatre in Aurora, Colorado on July 20, 2012 in
19 which the assailant used a Smith & Wesson M&P15 assault rifle
20 with a 100-round LCM. Twelve people lost their lives in this
21 shooting.

22 10. Among the mass shootings involving LCMS was the most deadly mass
23 shooting in U.S. history at The Pulse nightclub in Orlando, Florida in 2016 in
24 which the shooter used multiple 30-round magazines, some taped together to
25 facilitate swift reloading. This shooting left 52 dead and another 50 people with
26 gunshot wounds that they survived. It also includes a 2011 shooting in front of a
27 supermarket in Tucson, Arizona that left six dead and 13 wounded including then
28 U.S. Rep. Gabrielle Giffords who a suffered life-altering head wound. The Tucson

1 shooter used a handgun with a LCM and was able to fire 31 rounds before being
 2 restrained when attempting to reload. The shooter in the mass murder of 20 young
 3 children and six adults at Sandy Hook Elementary School in Newtown, Connecticut
 4 and the shooter of 49 people, 32 who died, at Virginia Tech University also used
 5 LCMs.

6 11. When mass shootings occur in public, especially shootings that take
 7 place in public places, the shooter often selects an assault weapon or another
 8 firearm with a LCM. Data on 15 public mass shootings in the U.S. from 1984 to
 9 1993 collected by Gary Kleck revealed that six (40%) involved assault weapons or
 10 other firearms equipped with LCMs.^{2,3} A collection of data by Mother Jones
 11 magazine on 62 mass shootings in public places by lone shooters from 1982
 12 through 2012 found that 33 (53.2%) perpetrators used firearms or LCMs that were
 13 or would have been banned by the federal ban of assault weapons and LCMs.⁴ A
 14 report by Everytown for Gun Safety examined data on mass shooting involving
 15 four or more gunshot victims from 2009 through August 31, 2016 using the FBI's
 16 Uniform Crime Reports/ Supplemental Homicide Reports data and media
 17 accounts.⁵ This study did not limit the sample to shootings in public places
 18 involving lone shooters and thus included a large share of incidents of domestic
 19 violence or other scenarios in which a small number of people were targeted and,
 20 therefore, large ammunition capacity becomes less relevant than in the context of a
 21 mass shooting in a public place with a lot of people (e.g., school, workplace).
 22 Fifteen of 133 (11%) shootings involved a firearm with a LCM.

23 ² Kleck, Gary. *Targeting Guns: Firearms and Their Control*. New York:
 24 Aldine de Gruyter, pp. 124-126 (1997).

25 ³ Koper, 2004, p. 14.

26 ⁴ Mother Jones Magazine, US Mass Shootings, 1982-2012. Data from
 27 Mother Jones' Investigation, available at
 28 <http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data> (2014).

⁵ Everytown for Gun Safety. *Analysis of Recent Mass Shootings*
<https://everytownresearch.org/reports/mass-shootings-analysis/> Accessed January
 30, 2017.

12. Among all cases of mass shootings (4 or more victim fatalities) identified by Everytown, use of an assault weapon or other firearm with a LCM is associated with more people who are shot (on average, 13.3 vs. 5.2%) or killed (on average, 7.5 vs. 5.1) when compared with incidents in which LCMs are not used. In other words, the average number of persons shot when the shooter had a LCM or assault weapon that likely included a LCM was 2.5 times higher and the number killed 47% higher than when no LCM was used. Similarly, Professor Christopher Koper's re-analysis of his student's data from Mother Jones magazine's study of public mass murders with firearm revealed that mass shootings with assault weapons, compared with mass shooting with other firearms, involved more fatalities per incident (a mean of 10.4 vs. 7.4) and more victims with nonfatal gunshot wounds (mean of 13.5 vs. 6.4).⁶ Dillon (2013) also reported that, compared with assaults carried out with firearms that did not have LCMs, mass shootings in which firearms with LCMs were used had 60% more fatalities on average (a mean of 10.19 vs. 6.35) and more than 3 times as many persons with nonfatal gunshot wounds (12.39 vs. 3.55). These findings are consistent with those from a study of criminal shootings in Jersey City, NJ which found that, compared to shootings with revolvers, shootings with semi-automatic pistols—which tend to hold significantly more bullets than revolvers—had more shots fired and more victims wounded.⁷

13. Unfortunately, data to more definitively determine the connections between ammunition capacity and gun violence outcomes—the number of shots

⁶ Dillon, Luke, Mass Shootings in the United States: An Exploratory Study of the Trends from 1982-2012, Thesis for Master of Arts in Criminology, Law and Society, George Mason University, September 2013; Koper, Christopher S., Supplemental affidavit submitted as an expert witness in June, Shew et al. v. Daniel P Malloy, et al. Civil Action No. 3:13-CV-00739-AVC. U.S. District Court, District of Connecticut, January 6, 2014.

⁷ Reedy, Darin C., and Christopher S. Koper, Impact of handgun types on gun assault outcomes: a comparison of gun assaults involving semiautomatic pistols and revolvers, *Injury Prevention* 9:151-155 (2003).

1 fired, the rate of fire, the number of victims, the number of wounds per victims,
 2 lethality of woundings—have not been collected in any population. Gary Kleck,
 3 Professor Emeritus from Florida State University, has a working paper that pieces
 4 together various types of data in an attempt to discern whether there might be a
 5 logical connection between ammunition capacity or LCM use and outcomes in
 6 criminal violence.⁸ Yet the data used by Kleck and the interpretations he makes of
 7 the data are flawed. To determine the set of cases where it would be plausible that
 8 involvement of LCM might be relevant to violence outcomes, Kleck searches for
 9 cases in which *more than six victims have been shot*. His logic is that an ordinary
 10 revolver can shoot six people without reloading and, thus, mass shootings with six
 11 or fewer victims might have involved guns without LCMs. But because the rate at
 12 which shooters hit their human targets is low⁹, having more rounds available to
 13 shoot within a short and presumably stressful interval could increase the odds of a
 14 shooting leading to the wounding of one to five victims as well. Kleck then
 15 identifies various online databases of cases involving shootings with six or more
 16 victims where there is some information—from news media accounts—about
 17 whether or not a LCM was used in the incident. Through this process, Kleck
 18 identifies only 23 incidents in which more than six victims were shot at a single
 19 time and place in the U.S. for a period 1994-2013 and “*were known to involve the*
 20 *use of any magazines with capacities of ten rounds.*” (page 14) He then takes a
 21 two-year period (2013-2014) of such cases—699 in all—and compares it against a
 22 list compiled by the Violence Policy Center for mass shootings in which a LCM
 23 was used and identifies two such cases. He uses this small ratio (2/699) to argue

24 ⁸ Kleck, Gary. Large-Capacity Magazines and the Casualty Counts in Mass
 25 Shootings: The Plausibility of Linkages. Working Paper, Social Science Research
 26 Network abstract 2741098. March 6, 2016.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2741098

27 ⁹ About 1 in 5 shootings reported by victims in the National Crime
 28 Victimization Survey result in a victim wounding. *Shotspotter* technology used to
 identify gunfire in urban areas identifies many time more shooting incidents than
 are reported to police or that result in woundings.

1 that LCMs are irrelevant to high-casualty shootings. Kleck acknowledges that
2 news reports of mass shootings may not always report whether or not a LCM was
3 used, but fails to acknowledge that the online databases he and others use to study
4 mass shootings actually *rarely record the capacity of the firearm's magazine*. This
5 careless method, that pretends as if there is a valid surveillance system for tracking
6 use of LCM use when ammunition capacity is rarely recorded, produces very
7 misleading estimates of the use of LCMs in mass shootings.

8 14. Kleck also makes an argument ammunition capacity is only logically
9 relevant in incidents in which there is a high rate of fire over a short span of time.
10 This is because longer intervals in an incident provide opportunities for a shooter to
11 load another magazine or switch to another gun within a few seconds. The concept
12 is partly defensible, but his measure—seconds elapsing per shot fired—is fraught
13 with problems for large portion of the cases. For example, a shooter may fire 20
14 rounds in less than 10 seconds, wounding or killing many who do not have time to
15 escape or fight back, and then spend many minutes or hours “hunting” additional
16 victims. In such cases, a measure of seconds elapsed per shot fired is very
17 misleading if the goal is to ascertain situations in which a shooter has the ability to
18 and does fire a large number of rounds very quickly and uninterrupted. Also lost in
19 Kleck’s analysis and consideration is the fact that there is no way to measure the
20 incidents where there was the potential for a large number of casualties in a
21 shooting but fewer occurred *due to the absence of a LCM*. That is, the impact of a
22 shooter having fewer bullets in an ammunition feeding device may have an
23 important effect on reducing the likelihood that a case hits the victim threshold for a
24 mass shooting that is captured in mass shooting tracking projects that Kleck uses in
25 his analyses.

26 15. Studies of guns recovered by police and submitted for tracing to the
27 U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) prior to the 1994 federal
28 assault weapon ban indicated that assault weapons accounted for between 1% to 8%

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1 of such guns with the average of about 2%.¹⁰ Yet a study of murders of police
 2 officers while on duty in 1994 found that assault weapons were used in 16% of the
 3 murders and a firearm with a LCM was used to shoot 31% to 41% of the police
 4 officers murdered.¹¹ The Violence Policy Center examined data on law
 5 enforcement officers murdered in the line of duty from the FBI for 1998-2001 and
 6 found 19.4 % (41 of 211) had been shot with an assault weapon.¹²

7 16. In contrast to the data indicating that assault weapons and LCMs
 8 increase casualties from mass shootings, I am aware of no study or systematic data
 9 that indicate that LCMs are necessary for personal defense more so than firearms
 10 that do not have a LCM. That is, I know of no data indicating that victims of
 11 violent crime tend to need more than 10 rounds of ammunition in the rare instances
 12 in which such persons use a firearm in self-defense or that persons equipped with
 13 assault weapons or LCMs were more effective in protecting themselves than were
 14 crime victims who used other types of firearms. For example, data from Colorado
 15 for the time period 2004-2013 indicate that citizens rarely, if ever, face situations in
 16 which they are defending their home against criminals and require more than 15
 17 rounds. In *Cooke v. Hickenlooper*, 54 of 55 Colorado Plaintiff Sheriffs responded to
 18 Defendant's Interrogatories requiring that they supply information describing cases
 19 in their respective jurisdictions for every home invasion or robbery in a home to
 20 which their department responded during the ten-year period 2004-2013. This
 21 Interrogatory specifically asks for information on the circumstances, the number of
 22 criminal perpetrators, whether the perpetrators were armed and fired shots, whether
 23 victims were armed and used guns in self-defense, whether victims' guns had a

24
 25 ¹⁰ Kleck, Gary. *Targeting Guns: Firearms and Their Control*. New York:
 Aldine de Gruyter. (1997), pp. 112, 141-143.)

26 ¹¹ W.C. Adler, F.M. Bielke, D.J. Doi, and J.F. Kennedy. *Cops Under Fire:*
 Law Enforcement Officers Killed with Assault Weapons and Guns with High-
 Capacity Magazines. Washington, DC: Handgun Control, Inc., 1995, p.4.

27 ¹² Violence Policy Center, "Officer Down" Assault Weapons and the War on
 28 Law Enforcement, <http://www.vpc.org/studies/officene.htm> (2003).

1 LCM, and the number of shots fired by the victims. A report of the data supplied
2 by Sheriffs completed by Dr. Jeffrey S. Zax shows that perpetrators discharged
3 firearms in home invasions or home robberies a total of 46 times during the 10-year
4 study period, a rate of six per year or 1.25 per million population per year.¹³ During
5 this same time period, there were only two recorded instances in which a victim
6 displayed a firearm with a LCM and there were no home invasion crimes in which a
7 victim fired 16 or more rounds. Thus, Colorado residents who live in jurisdictions
8 served by the 55 counties served by Sheriffs face an incredibly low risk of home
9 invasion, an even smaller risk of a home invasion in which the criminal fires shots,
10 and even more rarely, if ever, use a LCM in a manner in which extended
11 ammunition capacity is relevant for their defense of themselves and their families.

12 17. Some claim that bans of assault weapons and LCMs do not work;
13 however, this is not the conclusion of Christopher Koper, the respected researcher
14 who has studied the role of assault weapons and LCMs in criminal violence and
15 attempted to estimate the impact of the 1994 federal assault weapon ban. Koper
16 correctly identified a number of weaknesses in the federal assault weapons ban
17 which limited its impact, especially in the short-term. For example, the federal
18 assault weapons ban allowed “copycat” versions of the banned firearms to be
19 produced and sold following the ban as long as the new firearm model was not
20 identical to the banned gun. Another was that the federal ban “grandfathered”
21 currently owned assault weapons and LCMs, including allowing the ongoing sales
22 of those grandfathered assault weapons and LCMs. It is estimated that this
23 involved 1.5 million assault weapons and 25 million LCMs.¹⁴ Similar to what I and
24 my colleagues observed when Maryland banned so-called “Saturday night special”

25
26 ¹³ Zax, Jeffrey S. Supplemental Report by Jeffrey S. Zax, Cooke, et al. V. Hickenlooper, September 13, 2013.

27 ¹⁴ Koper, Christopher S. *An Updated Assessment of the Federal Assault*
28 *Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*. Philadelphia: University of Pennsylvania. (2004). Page 10

1 handguns,¹⁵ there was a sharp increase in sales of the to-be-banned assault weapons
 2 just prior to the ban going into effect. The same was likely true for LCMs that were
 3 to be banned for sale.

4 18. These factors would suggest that the positive effects of the federal ban
 5 on LCMs and assault weapons on violence would be somewhat muted as well as
 6 delayed. In other words, the full impact of the federal ban of LCMs and assault
 7 weapons have on violence would be expected to be delayed and somewhat gradual
 8 as pre-ban built-up stocks of LCMs and assault weapons would satisfy most of the
 9 demand for some time after the ban went into effect.

10 19. Koper's study of the effects of the federal ban of LCMs and assault
 11 weapons in its early years indicated that there was a substantial decline in the
 12 percentage of guns recovered by police that were assault weapons in six cities that
 13 were studied with declines ranging from 17% in Milwaukee (5.91% to 4.91%) to
 14 72% in Boston (2.16% to 0.60%).¹⁶ Koper also examined pre-ban vs. post-ban
 15 changes in the percentage of police-recovered firearms with LCMs in four selected
 16 cities with available data (for the early years of the ban period) and saw no evidence
 17 of a decline in LCM use in crime.¹⁶ However, reporters from The Washington Post
 18 obtained data from the Criminal Firearms Clearinghouse collected by the Virginia
 19 State Police from 201 local law enforcement agencies across the state for the years
 20 1993 through 2010, which included the ammunition capacity of the firearms
 21 recovered by police. These data revealed that the percentage of police-recovered
 22

23 ¹⁵ Webster, Daniel W., Jon S. Vernick, and Lisa M. Hepburn, Effects of
 24 Maryland's law banning Saturday night special handguns on homicides. *American*
 25 *Journal of Epidemiology* 155:406-412 (2002).

26 ¹⁶ Koper, Christopher S., America's Experience with the Federal Assault
 27 Weapons Ban, 1994-2004: Key Findings and Implications, pages 157-171 in
 28 *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*,
 Daniel W. Webster and Jon S. Vernick, eds. Baltimore: Johns Hopkins University
 Press, at 163 (2013). Other pre-ban to post-ban changes in the percentage of
 police-recovered firearms that were assault weapons: -34% in Baltimore (1.88% to
 1.25%), 32% in Miami, FL (2.53% to 1.71%), 32% in St. Louis (1.33% to 0.91%),
 and -40% in Anchorage, AK (3.57% to 2.13%).

1 firearms that had LCMs rose steadily from about 13% in 1993 (the last full pre-ban
2 year) until 1997 when firearms with LCMs accounted for nearly 18% of guns
3 recovered by police. This increase was followed by a sharp decline following 1997
4 until LCM-equipped guns accounted for 10% of police-recovered firearms in 2004,
5 the year the federal assault weapon ban expired. Particularly striking in these data
6 was the sharp increase in the share of police-recovered firearms with LCMs after
7 the federal ban expired in 2004. Firearms with LCMs rose from 10% in 2004 to
8 more than 14% in 2005, continuing to rise in subsequent years until LCM-equipped
9 guns accounted for 22% of all police-recovered firearms in Virginia.¹⁷ This
10 temporal pattern in the percentage of police-recovered firearms equipped with
11 LCMs suggests that the pre-ban increased supply of LCMs likely brought about by
12 a combination of increased domestic sales just prior to the ban and post-ban
13 importation of LCMs (Koper 2004, pp. 65-67)¹⁶ predictably increased their use in
14 crime for a number of years before the blocked sales of new LCMs squeezed
15 supply, making them less available for use in crime only several years into the post-
16 ban period. Expiration of the ban in 2004 provided a large supply of LCMs to meet
17 pent up demand.

18 20. Though Koper has been relatively thorough in his examination of the
19 potential effects of the federal ban on assault weapons and LCMs on violent crime,
20 his analyses did not examine data for the full 10-year period the federal ban of
21 LCM and assault weapons was in effect because it was not available at the time he
22 completed his study. Excluding data from the last years when the ban was in effect,
23 based on temporal pattern of LCM use from data from Virginia police, likely
24 underestimated the LCM ban's effects on gun violence. Koper's analyses of
25 longitudinal data that ended between 2000 and 2003 depending on the analysis,
26 largely tested differences between pre-ban and post-ban means. An underlying

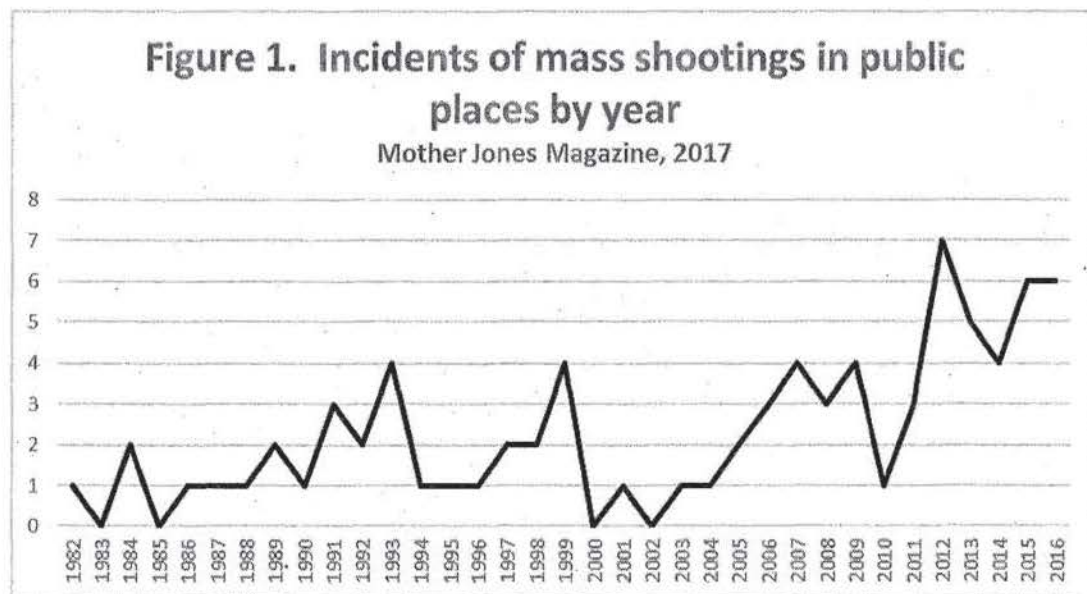
27 ¹⁷ Fallis, David, VA data show drop in criminal firepower during assault gun
28 ban, The Washington Post, January 23, 2011.

1 assumption behind such comparisons and statistical tests is that the potential effects
2 of the assault weapons and LCM ban would be observed immediately and be
3 constant over the post-ban time period. In his published reports, Koper did not
4 formally test whether the federal assault weapons ban had a delayed or gradual
5 effect on violent crime. Such a delayed or gradual effect is an outcome that would
6 be more plausible than the immediate, constant change scenario that was tested, in
7 light of the market data Koper analyzed, the effects of permitting ongoing sales of
8 grandfathered assault weapons and LCMs, and trends in criminal use of LCMs in
9 Virginia. For these reasons, it is my view that Koper's research is likely to
10 understate potential long-term public safety benefits of the federal ban of assault
11 weapons and LCMs.

12 21. Furthermore, as Koper has pointed out, only about 5% of those shot in
13 criminal shootings victimizations are shot in incidents in which more than 10
14 rounds were fired, suggesting an upper-bound for the potential impact of LCM bans
15 on gun violence. Because trends in overall gun violence are influenced by myriad
16 of factors, some of the potentially most important of which are very difficult to
17 measure (e.g., drug market dynamics, gang disputes, social norms surrounding
18 violence), it is possible that the federal ban of assault weapons and LCMs did
19 contribute to a proportionately small yet meaningful reduction in gun violence, but
20 available data and statistical models are unable to discern the effect. As Koper
21 points out, a one percent reduction in shootings in a nation with such high rates of
22 gun violence—undetectable in virtually any statistical analysis—translates to about
23 650 fewer shootings per year. (Koper 2013, p. 167.)¹⁶

24 22. Due to the relative rarity of such events, especially during his study
25 period, Koper did not examine the potential impact of the federal assault weapon
26 and LCM ban on mass shootings in public places or the effects of the policy change
27 on the number of victims shot in such cases. Although no formal, sophisticated
28 analyses of the data on mass shootings in public places by lone shooters for the

period 1982-2012 collected by Mother Jones magazine has been performed to my knowledge, a temporal pattern can be discerned that is consistent with a hypothesized protective effect of the federal assault weapon and LCM ban and a harmful effect of the expiration of that ban. Examining the data in Figure 1 (below), there is a noteworthy increase in the number of these incidents in the years leading up to the 1994 federal ban, a leveling off during the ban, and an increase following the expiration of the ban (from an annual average of 1.5 for 1995-2004 to 4.1 for 2005-2016).

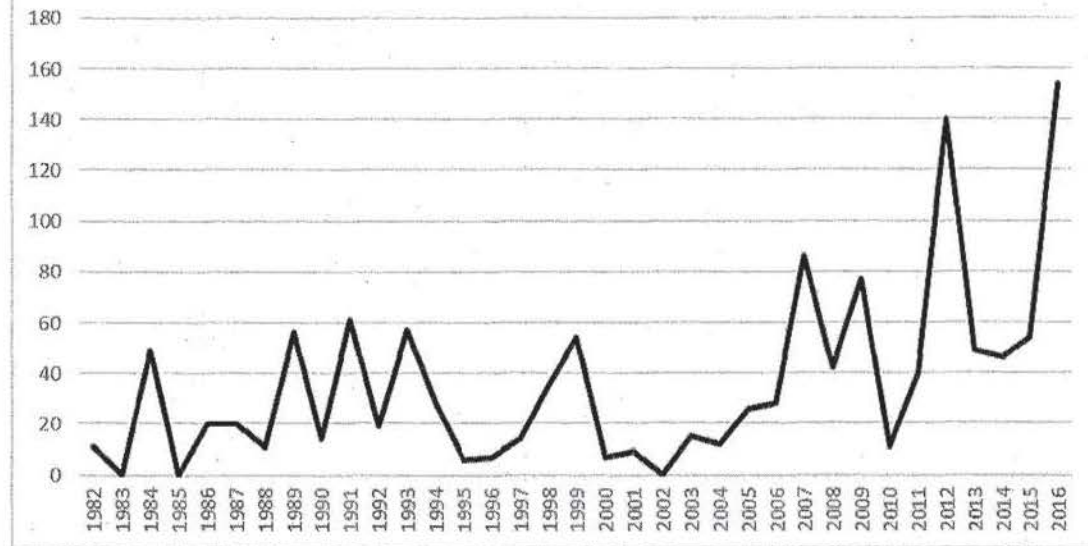


23. A more striking pattern is evident for the number of persons killed and wounded in public mass shootings by lone shooters (Figure 2). The mean number of persons shot per year in these incidents during the pre-ban years (1982- 1994) was 26.6, during the years the ban was in effect (1995-2004) it dipped to 21.1 (despite an upward pre-ban trajectory and the unusually large spike in 1999), and more than doubled during the years since the ban has expired (66.1 in 2005-2016). (Mother Jones Magazine 2017). These temporal changes could be due to a myriad

of factors, but the pattern of findings suggests that the federal assault weapons and LCM ban could have had a protective effect against the type of shootings in which the unique features of assault weapons and LCMs were most relevant and that motivated calls for the ban.

Figure 2. Number of victims in mass shootings in public places by year

Mother Jones Magazine, 2017



24. I performed a series of negative binomial regression analyses to test whether the pattern I observed in trends for mass shootings and victims shot in mass shootings were statistically significant and thus unlikely to be due to normal statistical fluctuation in the phenomena. These regression analyses use the annual US population as a so-called offset variable, thereby eliminating the effect of a growing population during the 1982-2016 study period. Simple regressions that tested for the effect of the 10-year federal ban of assault weapons and large capacity magazines indicated that the ban was associated with a statistically significant 62.6% reduction in the total number of victims shot in mass shootings during the ban (Incidence Rate Ratio, IRR = .374, $p = 0.010$) and a statistically significant

89.3% reduction in the number of victims shot in mass shootings in incidents involving an assault weapon or other firearm with a LCM (IRR = .107, $p < .001$). When I included a linear trend term in the model to control for pre-ban trend in mass shooting victimizations, the statistically significant associations between the AW/LCM ban years and the other years were essentially unchanged (-59.9% for all victims, IRR = .401, $p = .017$; -87.4% for all victims shot in mass shootings with an AW or LCM, IRR = .126, $p < .001$). I also tested whether the effect of having the federal AW/LCM ban grew over the years the ban was in effect. This is arguably a better way to model the effect due to the fact that there were large increases in AW and LCM bans just prior to the ban and that more potential sales of AWs and LCMs were blocked with each year the ban was in effect. Again, I found that, even after controlling for population growth and pre-ban trend, the AW/LCM ban was associated with a 14.2% reduction in the rate of all mass shooting victimization for each year the ban was in effect (IRR = .858, $p = .012$) and a 28.5% reduction in the number of victims shot in public mass shootings where an AW or other firearm with a LCM was used (IRR = .725, $p < .001$). These associations were statistically significant.


25. To date, there are no studies that have examined separately the effects of an assault weapons ban, on the one hand, and a LCM ban, on the other hand, likely because the two have usually been enacted together. It is my opinion that the largest protective effect of these laws are due to restrictions on LCMs because LCMs are used much more frequently than assault weapons.

26. LCMs can increase the ability of criminals and those attempting to kill or wound large numbers of innocent people to maximize casualties from their attacks. When shootings result in mass casualties, those in which a firearm with a LCM is used result in 2.5 times as many people shot and 47% as many killed than is the case in mass shootings with other types of firearms. Based on the threat that they pose to public safety as well as the fear generated by mass shootings, the state

1 of California's law restricting the maximum size of ammunition feeding devices to
2 10 seems prudent. Indeed, a lower limit could be justified. There is good reason to
3 believe that California's restriction in the capacity of ammunition feeding devices
4 for firearms would lead to modest reductions in gun violence. The federal LCM
5 ban appears to have led to a delayed decrease in the criminal use of LCMs and the
6 expiration of that law contributed to an increase in the use of LCMs in crime.
7 There is also data supporting the hypothesis that the federal ban and its expiration
8 were associated with changes in the number of people shot in mass shootings in
9 public places in a similar way.

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
2 is true and correct.

3 Executed on: June 5, 2017
4 _____



5 DANIEL W. WEBSTER
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U.S.

Nine Rounds a Second: How the Las Vegas Gunman Outfitted a Rifle to Fire Faster

By LARRY BUCHANAN, JON HUANG and ADAM PEARCE **UPDATED** OCT. 5, 2017

Authorities have not officially released details on the weapons a gunman used to kill [58 people and wound about 500 more](#) late on Sunday in Las Vegas. But analysis of video posted on social media shows that the gunman, identified by the police as Stephen Paddock, 64, [had rifles with rapid-fire capabilities](#).

An arsenal of firearms was recovered from Mr. Paddock's hotel room, said Sheriff Joseph Lombardo of the Las Vegas Metropolitan Police Department. At least one rifle in Mr. Paddock's suite had a "bump stock," a device used to retrofit a semiautomatic firearm to make it function like a fully automatic weapon, according to a law enforcement official who requested anonymity to divulge details of the investigation.

This video shows 15 seconds of the attack, with constant gunshots ringing out.

Source: [@spacetrekk9](#) on Twitter

Isolated, the pattern of gunshots looks like this.

Las Vegas About 90 shots in 10 seconds

Compare that with audio extracted from a video of the [June 2016](#) Orlando nightclub shooting, in which 49 people were killed and 53 were wounded. The gunman, Omar Mateen, [used at least two guns](#), including a semiautomatic AR-15-style assault rifle.

Orlando nightclub 24 shots in 9 seconds

Source: [WESH 2 News](#)

In contrast, a fully automatic weapon, like this pre-1986 Colt AR-15A2, sounds different. There are no variations in the firing rate like there was in the Las Vegas shooting.

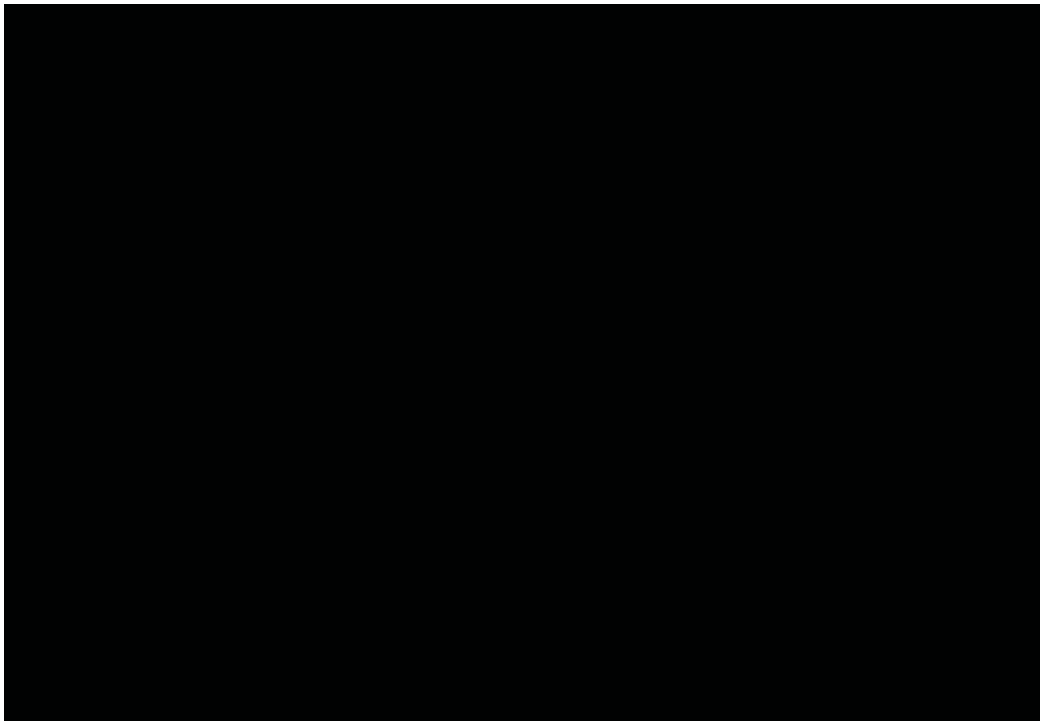
Fully automatic weapon 98 shots in 7 seconds

Source: YouTube

How did he fire so quickly?

The Las Vegas gunman modified at least one of his semiautomatic rifles to fire faster using a bump stock.

Slide Fire, a main manufacturer of bump-fire stocks, shows how the product works in the promotional video below.



Promotional video by [Slide Fire](#)

The device replaces a rifle's standard stock, which is the part held against the shoulder. It frees the weapon to slide back and forth rapidly because of recoil, with the stock bouncing, or "bumping," between the shooter's shoulder and trigger finger.

The shooter holds his or her trigger finger in place, while maintaining forward pressure on the barrel and backward pressure on the pistol grip while firing. This modification can be done legally and allows the user to fire at rates similar to those of automatic weapons.

Nine Rounds a Second: How the Las Vegas Gunman Outfitted a Rifle to Fire Faster - The New York Times

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Slide Fire, one of the main manufacturers of bump stocks, has [posted a letter](#) on its website from the Bureau of Alcohol, Tobacco, Firearms and Explosives, which says that the device “has no automatically functioning mechanical parts or springs and performs no automatic mechanical function.” In the letter, the government confirmed that the bump stock is not regulated under the National Firearms Act.

Additional reporting by C.J. Chivers and Thomas Gibbons-Neff. Note: Audio of firing was analyzed to estimate the number and timing of shots in the graphs above.

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1730 Rhode Island Avenue, NW 202.822.8200 voice
Suite 1014 202.822.8205 fax
Washington, DC 20036 www.vpc.org web

High-Capacity Ammunition Magazines are the Common Thread Running Through Most Mass Shootings in the United States



Columbine shooter armed with Intratec TEC-DC9 assault pistol equipped with high-capacity ammunition magazine

Since 1980, there have been at least 60 mass shootings (3 or more fatalities) where the shooter used high-capacity ammunition magazines. A total of 602 people were killed in these shootings and 1020 were wounded. This number is likely a significant undercount of actual incidents since there is no consistent collection or reporting of this data. Even in many high-profile shootings information on magazine capacity is not released or reported.

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
First Baptist Church of Sutherland Springs Sutherland Springs, Texas November 5, 2017 Shooter: Devin Patrick Kelley	27 dead (including the shooter), 20 injured	Sturm, Ruger AR-556 assault rifle	15 30-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Route 91 Harvest festival Las Vegas, Nevada October 1, 2017 Shooter: Stephen Paddock	59 dead (including the shooter), 489 injured	Multiple AR-type assault rifles including 4 Daniel Defense assault rifles, 3 FN-15 assault rifles, 3 LMT assault rifles, and 2 POF assault rifles	Multiple high-capacity ammunition magazines including 12 100-round magazines, 6 25-round magazines and 1 40-round magazine
Cascade Mall Burlington, Washington September 23, 2016 Shooter: Arcan Cetin	5 dead	Sturm, Ruger 10/22 rifle	25-round magazine
UPS distribution center San Francisco, California June 14, 2017 Shooter: Jimmy Lam	4 dead (including shooter), 2 wounded	MasterPiece Arms MAC-10 assault pistol	30-round magazine
House party Mukilteo, Washington July 30, 2016 Shooter: Allen Christopher Ivanov	3 dead, 1 wounded	Sturm Ruger AR-15 assault rifle	30-round magazine
Baton Rouge, Louisiana July 17, 2016 Shooter: Gavin Long	3 law enforcement officers dead, 3 wounded	Tavor SAR assault rifle, Stag Arms M4 variant assault rifle, Springfield XD 9 mm semiautomatic pistol	High-capacity ammunition magazines
Dallas, Texas July 7, 2016 Shooter: Micah Johnson	5 law enforcement officers dead, 9 officers and two citizens wounded	Saiga AK-74 assault rifle, Glock 19 Gen 4 and Fraser .25 semiautomatic pistols	Multiple high-capacity ammunition magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Pulse nightclub Orlando, Florida June 12, 2016 Shooter: Omar Mateen	50 dead (including shooter), 53 wounded	Sig Sauer MCX assault rifle	Multiple 30-round magazines, some taped together for faster reloading
Excel Industries Hesston, Kansas February 25, 2016 Shooter: Cedric Ford	4 dead (including shooter), 14 wounded	Zastava AK-variant assault rifle, Glock 22 semiautomatic pistol	30-round magazine
Kalamazoo Michigan Multiple parking lots February 20, 2016 Shooter: Jason Dalton	6 dead, 2 wounded	Glock 19 semiautomatic pistol, Walther P99 9mm semiautomatic pistol	Extended magazine
Inland Regional Center San Bernardino, California December 2, 2015 Shooters: Syed Farook and Tashfeen Malik	14 dead, 21 wounded	Smith&Wesson M&P assault rifle, DPMS A15 assault rifle	4 30-round magazines
Navy Operational Support Center and Marine Corps Reserve Center Chattanooga, Tennessee July 16, 2015 Shooter: Muhammad Youssef Abdulazeez	6 dead (including shooter), 2 wounded	AK-variant assault rifle, Saiga assault shotgun, handgun	Multiple 30-round magazines
Emanuel African Methodist Episcopal Church Charleston, South Carolina June 17, 2015 Shooter: Dylann Roof	9 dead	Glock .45 Model 41 pistol	13-round magazines
Marysville-Pilchuck High School, Marysville, Washington October 24, 2014 Shooter: Jaylen Fryberg	5 dead (including shooter)	Beretta .40 semiautomatic pistol	High-capacity, number of rounds unstated

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Apartment complex Hialeah, Florida July 26, 2013 Shooter: Pedro Vargas	6 dead	Glock 17 semiautomatic pistol	17-round magazine
Santa Monica, California June 7, 2013 Shooter: John Zawahri	6 dead, (including shooter)	AR-type assault rifle built from parts	40 30-round magazines
Sandy Hook Elementary School Newtown, Connecticut December 14, 2012 Shooter: Adam Lanza	28 dead, (including shooter)	Bushmaster XM15 assault rifle, Glock 10mm pistol, 9mm Sig Sauer pistol	30-round magazines
Accent Signage Systems Minneapolis, Minnesota September 27, 2012 Shooter: Andrew Engeldinger	7 dead (including shooter), 3 wounded	Springfield XDM semiautomatic pistol	2 15-round magazines
Sikh Temple Oak Creek, Wisconsin August 5, 2012 Shooter: Wade Michael Page	7 dead (including shooter), 2 wounded	Glock 9mm semiautomatic pistol	3 19-round magazines
Café Racer Seattle, Washington May 30, 2012 Shooter: Ian Stawicki	6 dead (including shooter)	Colt .45 semiautomatic pistol	Extended magazine
Century Aurora 16 movie theater Aurora, Colorado July 20, 2012 Shooter: James Holmes	12 dead, 58 wounded	Smith & Wesson M&P15 assault rifle, .40 Glock pistol, Remington model 870 12 gauge shotgun	100-round magazine
IHOP Carson City, Nevada September 6, 2011 Shooter: Eduardo Sencion	5 dead, (including shooter), 7 wounded	MAK-90 assault rifle (illegally converted to full-auto)	20- and 30-round magazines
Safeway parking lot Tucson, Arizona January 8, 2011 Shooter: Jared Loughner	6 dead, 13 wounded	Glock 19 semiautomatic pistol	Two 31-round magazines Two 15-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Shreveport, Louisiana August 16, 2010 Shooter: Marcus Donte Reed	3 dead	Assault weapon	30-round magazine
Hartford Distributors Manchester, Connecticut August 3, 2010 Shooter: Omar Thornton	9 dead (including shooter), 2 wounded	Sturm, Ruger SR9 semiautomatic pistol	17- and 15-round magazines
ABB, Inc. St. Louis, Missouri January 7, 2010 Shooter: Timothy Hendron	4 dead (including shooter), 5 wounded	Romarm AK-47 assault rifle, Tristar 12 gauge shotgun, Hi-Point .40 pistol	Two “banana-style” high- capacity magazines (capacity not stated)
Fort Hood Fort Hood, Texas November 5, 2009 Shooter: Nidal Hasan	13 dead, 34 wounded	FN Five-seveN 5.7mm semiautomatic pistol	30- and 20-round magazines
LA Fitness Center Collier, Pennsylvania August 4, 2009 Shooter: George Sodini	4 dead (including shooter), 9 wounded	Two 9mm semiautomatic pistols, .45 pistol, .32 pistol	30-round magazines
American Civic Association Binghamton, New York April 3, 2009 Shooter: Jiverly Wong	14 dead (including shooter), 4 wounded	9mm Beretta semiautomatic pistol, .45 handgun	30-round magazine
Oakland, California March 21, 2009 Shooter: Lovelle Mixon	4 dead	SKS assault rifle	High-capacity magazine
Alabama, multiple locations March 10, 2009 Shooter: Michael McLendon	11 dead (including shooter)	SKS assault rifle, Bushmaster AR-15 assault rifle, .38 pistol	High-capacity magazines taped together
Walt Lou Trailer Park Stafford, Virginia May 5, 2008 Shooter: Aaron Poseidon Jackson	4 dead (including shooter)	WASR-10 assault rifle, Smith & Wesson .38 revolver	30-round magazines
Northern Illinois University DeKalb, Illinois February 14, 2008 Shooter: Steven Phillip Kazmierczak	6 dead (including shooter), 21 wounded	Glock19 9mm pistol, Hi-Point 380, Remington12 gauge Sportsman 48 shotgun	33- and 15-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Westroads Mall Omaha, Nebraska December 5, 2007 Shooter: Robert Hawkins	9 dead (including shooter), 5 wounded	WASR-10 assault rifle	Two 30-round magazines taped together
Virginia Tech Blacksburg, Virginia April 16, 2007 Shooter: Seung-Hui Cho	33 dead (including shooter), 17 wounded	Glock 19 semiautomatic pistol, Walther P22 pistol	15-round magazines
Mail Processing Plant Goleta, California January 30, 2006 Shooter: Jennifer San Marco	7 dead	Smith & Wesson 9mm model 915 semiautomatic pistol	15-round magazine
Living Church of God Brookfield, Wisconsin March 13, 2005 Shooter: Terry Ratzmann	8 dead (including shooter)	Beretta 9mm semiautomatic pistol	2 13-round magazines
Hunting Camp Birchwood, Wisconsin November 21, 2004 Shooter: Chai Vang	6 dead, 3 wounded	SKS assault rifle	20-round magazine
Edgewater Technology Inc. Wakefield, Massachusetts December 26, 2000 Shooter: Michael McDermott	7 dead	AK-47 assault rifle, 12 gauge pump-action shotgun	60-round, large-capacity feeding device
Xerox Honolulu, Hawaii November 2, 1999 Shooter: Byran Uyesugi	7 dead	Glock 17 9mm semiautomatic pistol	Three 15-round magazines
Wedgewood Baptist Church Fort Worth, Texas September 15, 1999 Shooter: Larry Gene Ashbrook	8 dead (including shooter), 7 wounded	Sturm, Ruger P85 9mm semiautomatic pistol, .380 pistol	Three 15-round magazines

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Columbine High School Littleton, Colorado April 20, 1999 Shooters: Eric Harris and Dylan Klebold	15 dead (including shooters), 23 wounded	Intratec TEC-DC9 assault pistol, Hi-Point 9mm Carbine, Savage 67H pump-action shotgun, Savage 311-D 12-gauge shotgun	High-capacity magazines (capacity unstated)
Thurston High School Springfield, Oregon May 21, 1998 Shooter: Kip Kinkel	4 dead, 22 wounded	9mm Glock semiautomatic pistol, .22 Sturm Ruger rifle, .22 Sturm Ruger pistol	50-round magazine
Westside Middle School Jonesboro, Arkansas March 24, 1998 Shooters: Andrew Golden and Mitchell Johnson	5 dead, 10 wounded	M-1 rifle, Remington .30-06 rifle, various handguns	15-round magazine
Connecticut State Lottery Headquarters Newington, Connecticut March 6, 1998 Shooter: Matthew Beck	5 dead (including shooter)	Glock 9mm semiautomatic pistol	19-round magazine
Caltrans Maintenance Yard Orange, California December 18, 1997 Shooter: Arturo Reyes Torres	5 dead (including shooter), 2 wounded	AK-47 assault rifle	Five 30-round magazines
Piper Technical Center Los Angeles, California July, 19, 1995 Shooter: Willie Woods	4 dead	Glock semiautomatic pistol	19-round magazine
DC Police Headquarters Washington, DC November 22, 1994 Shooter: Bennie Lee Lawson	4 dead (including shooter), 1 wounded	Cobray —11 assault pistol	Extended magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Fairchild Air Force Base hospital Spokane, Washington June 20, 1994 Shooter: Dean Mellberg	5 dead (including shooter), 23 wounded	MAK-90 assault rifle	75-round drum magazine
Long Island Railroad Long Island, New York December 7, 1993 Shooter: Colin Ferguson	6 dead, 19 wounded	Sturm, Ruger P-89 9mm semiautomatic pistol	Four 15-round magazines
Pettit & Martin Law Offices San Francisco, California July 1, 1993 Shooter: Gian Luigi Ferri	9 dead (including shooter), 6 wounded	Two Intratec TEC- DC9 assault pistols, .45 pistol	40- to 50-round magazines
Luby's Cafeteria Killeen, Texas October 16, 1991 Shooter: George Hennard	24 dead (including shooter), 20 wounded	Sturm, Ruger P-89 9mm semiautomatic pistol, Glock 9mm semiautomatic pistol	17- and 15-round magazines
General Motors Acceptance Corp. Jacksonville, Florida June 18, 1990 Shooter: James Pough	10 dead (including shooter), 4 wounded	M-1 rifle, .38 revolver	30-round magazines
Standard Gravure Corporation Louisville, Kentucky September 14, 1989 Shooter: Joseph Wesbecker	9 dead (including shooter), 12 wounded	AK-47 assault rifle, 2 MAC-11 assault pistols, .38 revolver, Sig Sauer 9mm pistol	30-round magazines
Cleveland Elementary School Stockton, California January 17, 1989 Shooter: Patrick Purdy	6 dead (including shooter), 30 wounded	AK-47 assault rifle, Taurus 9mm pistol, unidentified pistol	75-round drum magazine
Palm Bay shopping center Palm Bay, Florida April 23, 1987 Shooter: William Cruse	6 dead (including 2 police officers)	Sturm, Ruger Mini- 14 assault rifle	Five 30-round magazines
McDonald's San Ysidro, California July 18, 1984 Shooter: James Huberty	22 dead (including shooter), 19 wounded	Uzi Carbine, Browning 9mm pistol, Winchester 1200 pump-action 12-gauge shotgun	25-round magazine

Mass Shooting Incident	Casualties	Firearm(s)	High-Capacity Ammunition Magazine(s)
Ianni's Nightclub Dallas, Texas June 29, 1984 Shooter: Abdelkrim Belachheb	6 dead, 1 wounded	Smith & Wesson 9mm semiautomatic pistol	Two 14-round magazines
Pennsylvania, multiple locations September 25, 1982 Shooter: George Emil Banks	13 dead, 1 wounded	AR-15 semiautomatic assault rifle	30-round magazines
Oregon Museum Tavern Salem, Oregon May 7, 1981 Shooter: Lawrence Moore	4 dead, 19 wounded	Browning 9mm semiautomatic pistol	Two 14-round magazines

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A 30 round magazine, left, and a 10 round magazine, right, below an AR-15.

GUN POLICY

Bans on High-Capacity Magazines, Not Assault Rifles, Most Likely to Limit Mass Shooting Carnage

The Orlando shooting shows it's not what the gun looks like that matters — it's how many rounds it can fire without reloading.

by **Alex Yablon** · @AlexYablon · June 13, 2016

The day after the deadliest mass shooting in U.S. history, likely Democratic presidential nominee Hillary Clinton addressed the fears the massacre evoked. Speaking at an event in Cleveland, Ohio, Clinton highlighted what she saw as crucial steps for stopping such terrorist attacks in the future. Along with more aggressive intelligence gathering and better resources for local law enforcement, Clinton focused on one of the weapons used by the shooter in Orlando, Florida: a military-style rifle similar to the AR-15.

"It's essential we stop terrorists from getting the tools they need to carry out attacks," Clinton said, receiving the speech's loudest applause when she made clear that was referring to "assault

Exhibit 21
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weapons” like the AR-15. Calling them “weapons of war,” she argued that “they have no place on our streets.”

Clinton’s broad condemnation suggests she might push to revive the federal ban on assault weapons, a law her husband signed in 1994. The ban was among the most controversial gun reform policies of the past 20 years, and calls to re-institute it have come after many high-profile shootings.

But many experts doubt the ban had any significant impact before it expired in 2004.

Today, many experts instead believe the most effective means to lessen the carnage in attacks like the one in Orlando is to ban high-capacity magazines. These devices feed semiautomatic firearms, including handguns, large amounts of ammunition, allowing shooters to fire for longer before reloading. While assault-style rifles like the AR-15 could increase the lethality of an attack in some situations, they say, it is high-capacity magazines that allow shooters to fire dozens of shots without stopping.

Officials from the Bureau of Alcohol, Tobacco, Firearms, and Explosives said the Orlando shooter used a Sig Sauer MCX semiautomatic rifle, which fires as quickly as its user can pull the trigger and can be equipped with detachable magazines that hold any number of rounds. The Orlando shooter used 30-round magazines, according to the ATF, which are illegal in a handful of states, but not in Florida. That almost certainly contributed to the high body count, since the shooter did not have to pause to reload as frequently as he would have with a smaller magazine.

The semiautomatic rifle used in the Orlando massacre resembles those used in past mass shootings in Aurora, Colorado; Newtown, Connecticut; Roseburg, Oregon; and San Bernardino, California.

Though assault weapons have become a potent symbol of mass shootings, bans of that style of gun are a “distraction,” said Adam Winkler, a UCLA law professor and the author of *Gunfight*. For starters, he says, it didn’t actually stop manufacturers from selling assault rifles. Because the 1994 ban defined weapons based on “cosmetic” features like pistol grips or collapsible stocks, gun makers evaded these restrictions by removing just enough design features so as to not trigger the ban. Meanwhile, the weapons remained semiautomatic and could still accept magazines of any size.

Winkler says he believes a ban on magazines that hold lots of ammunition would be a more effective strategy in limiting the carnage from a mass shooting. “It makes far more sense to focus on high-capacity magazines than assault rifles,” he says. Winkler notes that it’s not the style of a gun but “the size of a magazine [that’s] associated with the amount of damage a weapon can cause.” (The 1994 law included such a ban, but there was no restriction on the sale or possession of high-capacity magazines, and millions remained in circulation.)

This thinking has guided policies in eight states, which ban in some form high-capacity magazines. New York’s SAFE Act, signed into law weeks after the 2012 shooting in Newtown, Connecticut, included bans on possession of any magazine capable of holding more than 10 rounds. Later in 2013, Colorado banned the sale of magazines that carry more than 15 rounds.

In California, some local and state lawmakers have called for new restrictions on high-capacity magazines. The state already outlaws sale of the magazines, but not possession. After the state

was rocked by the San Bernardino shootings in December, Lieutenant Governor Gavin Newsom began campaigning to expand a Los Angeles law banning possession statewide.

Restrictions on assault weapons and high-capacity magazines are supported by a small majority of Americans. A poll conducted by the Johns Hopkins Bloomberg School of Public Health in March 2015 found that 63 percent of all Americans favored assault weapon bans, and 60 percent favored banning the sale of high-capacity magazines.

Californians support restrictions on assault weapons and magazine capacities at similar levels to the rest of the country. A poll conducted soon after the San Bernardino shooting by the Field Corporation, a San Francisco-based public opinion research firm, found that 58 percent of the state's voters supported banning possession of large magazines and 56 percent supported a broad assault weapons ban that included all semiautomatic rifles that can accept detachable magazines.

Florida voters have not been polled on assault weapon or magazine capacity restrictions since March 2013, when the most recent high-profile mass shooting had occurred about 1,000 miles away in Connecticut. Quinnipiac University pollsters found that Florida voters were slightly in favor of the laws: 56 percent favored a national assault weapons ban, and 53 percent favored a ban on magazines that hold more than 10 rounds.

At least one expert suspects those views might change in the wake of the nation's worst mass shooting. Susan MacManus, a professor of political science at the University of South Florida who conducts the Sunshine State poll on political issues, says of assault weapon and magazine capacity restrictions, "I am sure that support levels would be higher after yesterday's shooting."

[Photo: AP Photo/Charles Krupa]

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I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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Beth L. Gratz
Declarant

s/ Beth L. Gratz
Signature

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