

EXHIBIT A

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Albany Division**

IVAN ANTONYUK, GUN OWNERS OF
AMERICA, INC., GUN OWNERS
FOUNDTION, and GUN OWNERS OF
AMERICA NEW YORK, INC.,

Plaintiffs,

vs.

KEVIN P. BRUEN, in his Official Capacity as
Superintendent of the New York State Police,

Defendant.

Civil Action No. 1:22-CV-00734-GTS-CFH

**MEMORANDUM OF DR. JACLYN SCHILDKRAUT, Ph.D., AS *AMICUS CURIAE*,
IN RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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STATEMENT OF INTERESTS OF *AMICUS CURIAE*

Dr. Jaclyn Schildkraut, Ph.D. seeks to participate as *amicus curiae* because her extensive research and background as an international expert on mass shootings enables her to offer the Court unique and important information relating to the import of the social media component of New York’s Concealed Carry Improvement Act (“CCIA”), N.Y. Penal Law § 400.00 (McKinney 2022), and because she is a resident of New York that will be impacted by the enforcement or, as the plaintiffs would have it, restriction, of the CCIA.

Through her academic research as an Associate Professor of Criminal Justice at the State University of New York (“SUNY”) at Oswego, and with the nonpartisan Regional Gun Violence Research Consortium (“RGRVC”),¹ where she currently serves as interim Executive Director, Dr. Schildkraut is widely regarded as a leading national expert on mass shootings. She has published her acclaimed research in numerous academic and legal journals, including: *American Journal of Criminal Justice*; *Crime, Law and Social Change*; *Criminology*; *Criminal Justice, Law & Society*; *Emory Law Journal*; and *Washington University Journal of Law & Policy*. Dr. Schildkraut has also authored and/or edited numerous books, book chapters, and policy briefs relating to mass shootings. As part of her research, Dr. Schildkraut has examined leakage by mass shooters in advance of perpetrating their crimes, including leakage via social media. “Leakage” is a term of art used in the context of threat assessment to describe communications of an intent to do to harm.

Dr. Schildkraut files this Memorandum to explain the important impact the CCIA’s social media reporting requirement could have to the prevention of gun violence; to provide the Court

¹ The RGRVC is a nonpartisan coalition of gun violence researchers and practitioners from eight states and territories (New York, New Jersey, Connecticut, Delaware, Massachusetts, Pennsylvania, Rhode Island, and Puerto Rico) that aims to inform policymakers and the public by providing evidence-based, data-driven policy recommendations to disrupt the cycle of firearm-involved homicides, suicides, and injuries.

helpful information regarding mass shooters' pre-attack leakage in social media; and to summarize some of the evidence-based research regarding the potentially predictive nature of such leakage. This research supports the inclusion of a social media component in the CCIA, which the plaintiffs challenge.

SUMMARY OF ARGUMENT

Since the unforgettable massacre at Columbine High School on April 20, 1999, most mass shooters in the United States have leaked their intentions before carrying out their attacks. Social media has proven to be an easy and common means by which shooters leak their intentions, and there is a substantial documentary record demonstrating that mass shooters have used social media to publicize their intentions before engaging in their horrific criminal acts. Research also has shown that, in a variety of contexts, leakage provides insights into intended behavior, and that an examination of potential social media leakage can provide an early warning sign of potential future violence.

My and other academics' research into social media leakage is relevant to the Plaintiffs' motion for a preliminary injunction, which contends that the CCIA's social media disclosure requirement is "a staggering overreach" that invites, *inter alia*, "arbitrary and capricious behavior." (See Dkt. 9-1 at pp. 12, 14.) To evaluate this claim, it is important to determine whether the social media accounts of applicants for concealed-carry licenses could reveal potential dangerousness to oneself or others. Research regarding the social media leakage by mass shooters is directly relevant to this issue because, among other reasons, mass shooters have applied for gun licenses, including concealed carry permits, before committing their violent offenses.²

² See *infra* Section B (citing Violence Policy Center: Mass Shootings, <https://vpc.org/revealing-the-impacts-of-gun-violence/mass-shootings-2/> (last visited on Aug. 13, 2022); Violence Policy Center: Concealed Carry Killers, <https://archive.ph/2GOBR#selection-383.1-387.16> (last visited on Aug. 9, 2022)).

New York State’s requirement that applicants for concealed carry permits must disclose their social media history as part of the application process is grounded in empirical, peer-reviewed research. An examination of applicants’ social media history can reveal important aspects of the applicants’ background, prior conduct, and intentions, all of which is reasonably necessary and related to review of the firearms application, as it may indicate whether the applicant presents a threat of harm themselves or others if granted access to carry a concealed firearm.

ARGUMENT

A. The CCIA’s Social Media Disclosure Requirement Permits A Review For Pre-Incident Leakage: a Critical Risk Factor Foreshadowing the Applicant’s Dangerousness

1. Peer-Reviewed Studies Have Shown That Acts of Violence Are Preceded By Leakage, Including on Social Media

Targeted violence is rarely impulsive or spontaneous; rather, ample research has shown that perpetrators of mass shootings have “follow[ed] a clear, discernible path toward targeted violence,”³ which typically includes certain pre-attack warning behaviors that reveal a clear intention toward violence.⁴ Leakage—the communication to a third party of an intent to do future harm to a target—is one such warning behavior.⁵

The concept of leakage as a warning behavior that precedes targeted violence has been the subject of substantial research for more than 20 years.⁶ Leakage occurs when individuals are so consumed with thoughts of their fantasies and plans that they reveal clues—feelings, thoughts, attitudes, or intentions—that foreshadow their violent acts.⁷ This may be intentional, such as when

³ Jaclyn Schildkraut, Rebecca Cowan & Tessa M. Mosher, *The Parkland Mass Shooting and the Path to Intended Violence: A Case Study of Missed Opportunities and Avenues for Future Prevention*, 1 Homicide Studies (1-24) (2022).

⁴ *See id.* at 2.

⁵ *See id.* at 4.

⁶ Mary Ellen O’Toole, *The School Shooter: A Threat Assessment Perspective*, Critical Incident Response Group, National Center for the Analysis of Violent Crime (2000).

⁷ *See* J. Reid Meloy & Mary Ellen O’Toole, *The Concept of Leakage in Threat Assessment* (2011); Jaclyn Schildkraut, *Mass Shootings: The Motives Vary, but the Path to Violence is*

perpetrators crave attention or notoriety, or unintentional, as occurs when perpetrators are unable to contain or conceal their emotions and violent intentions.⁸ Leakage can take different forms, including subtle threats, boasts, or innuendos, but the most severe forms of leakage publicize homicidal thoughts and/or an interest in mass killings.⁹

Indeed, the research regarding leakage has been so widely accepted that the Federal Bureau of Investigation (“FBI”) has agreed that leakage is an important early warning signal of future violent acts, and that prompt attention to leakage could save lives.¹⁰ In a landmark report published in 2015, for example, the FBI stated that social media leakage “offers an often unparalleled view into the thoughts, feelings, plans and intentions of a person of concern,” and that it “can be a very effective source of information regarding the person’s mindset and future plans” that should “not [be] dismissed.”¹¹

Leakage studies have gone beyond just a retrospective analysis, where a shooter’s intentions may become clear after he engaged in the criminal act. More recent studies show that an examination of leakage can have predictive power. Peer-reviewed research studies confirm the linkage between social media leakage and acts of violence. For example, a study published in the Official Journal of the American Association of Suicidology in 2018 details how individuals who

Largely the Same, Rockefeller Inst. of Gov’t (June 3, 2022), <https://rockinst.org/blog/mass-shootings-the-motives-vary-but-the-path-to-violence-is-largely-the-same/> (citing “Protecting America’s Schools: A U.S. Secret Service Analysis of Targeted Violence”); Jaclyn Schildkraut & Glenn W. Muschert, *Columbine, 20 Years Later and Beyond: Lessons from Tragedy* (2019).

⁸ See, e.g., J. Reid Meloy & Mary Ellen O’Toole, *The Concept of Leakage in Threat Assessment* (2011) at 10-11.

⁹ See Adam Lankford, et al., *Are the Deadliest Mass Shootings Preventable? An Assessment of Leakage, Information Reported to Law Enforcement, and Firearms Acquisition Prior to Attacks in the United States* (2019) at 316, 330, 334.

¹⁰ See Mary Ellen O’Toole, *The School Shooter: A Threat Assessment Perspective* (2000); Lankford et al. at 330-32.

¹¹ See FBI, *Making Prevention a Reality: Identifying, Assessing, and Managing the Threat of Targeted Attacks* (2015), <https://www.fbi.gov/file-repository/making-prevention-a-reality.pdf/view> (last visited Aug. 12, 2022).

died by suicide showed strong coupling between triggers and cognitions in their pre-suicide social media posts; the study concludes that social media content may support an estimate of when a social media user is likely to attempt to commit suicide.¹² Similarly, a 2019 study of 31 peer-reviewed articles found that teenagers and young adults frequently share risk factors for suicide with the public on social media platforms like Facebook and Twitter, and concluded that viewing social media accounts can help emergency department physicians identify people at risk for suicide.¹³

Beyond its ability to predict harm to oneself, leakage has also been identified as a helpful tool that could be used to prevent future terrorist attacks. In *Leaking in Terrorist Attacks: A Review*, researchers concluded, based on their review of available international literature on religiously and politically motivated terrorist attacks, that up to 90% of terrorist attackers showed some form of pre-attack leakage, including leakage via communication over the Internet.¹⁴ Another recent study that examined court records relating to lone-actor terrorism cases in the United States concluded that 65.4% of lone actor terrorists had leaked their intentions to commit terrorism, including through online activities such as public posts on Twitter.¹⁵

The ability to use social media leakage to identify a risk of future violence—whether suicide or terrorism—applies equally to other violent, intentional acts like mass shootings and homicides.¹⁶ Indeed, though averted tragedies are not frequently publicized, there have been

¹² Craig J. Bryan, et al., *Predictors of Emerging Suicide Death Among Military Personnel on Social Media Networks*, 48 *Suicide and Life-Threatening Behavior* (2018).

¹³ See Ali Pourmand, et al., *Social Media and Suicide: A Review of Technology-Based Epidemiology and Risk Assessment*, 25 *Telemedicine and e-Health* (2019).

¹⁴ Anne-Lynn Dudenhofer, *Leaking in Terrorist Attacks: A Review*, 58 *Aggression and Violent Behavior* (2021).

¹⁵ Menna Rose & John Morrison, *An Exploratory Analysis of Leakage Warning Behavior in Lone-Actor Terrorists*, *Behavioral Sciences of Terrorism and Political Aggression* (2021).

¹⁶ See *id.* at Abstract (“Leakage is one of the eight warning behaviors referred to in the violence risk and threat assessment literature.”); Jaclyn Schildkraut & Glenn W. Muschert, *Columbine, 20 Years Later and Beyond: Lessons from Tragedy* (2019) (“one of the most important clues that

reported instances of law enforcement successfully using leakage to thwart mass shootings and homicides. In 2020, for example, after the discovery of disturbing social media posts from a prominent technology company’s software engineer alluding to plans of a violent attack, law enforcement professionals obtained a warrant, entered the engineer’s home, found illegally modified assault weapons and evidence of online searches for locations of public figures, and successfully prevented any violent attack.¹⁷ As another example, one year earlier, in 2019, authorities arrested men in Connecticut and Ohio allegedly planning two unrelated mass shootings, after receiving tips from the public about alleged threats made on their social media accounts.¹⁸

These examples are not outliers; mass shooters frequently engage in the same types of social media leakage before engaging in their criminal conduct, and such observable behavior on social media thus represents “critical opportunities for detection and disruption.”¹⁹

2. Most Mass Shootings Have Been Preceded by Leakage

Decades of extensive research in the fields of criminology, threat assessment, and psychology confirm that the vast majority of mass shootings are preceded by leakage. A mass shooting is generally defined to refer to a shooting incident that involves multiple shooting victims (both injuries and fatalities) at one or more public or populated locations, with the victims and locations chosen either at random or for symbolic value, exclusive of gang violence or targeted

foreshadows an event like [the] Columbine [school shooting] is leakage”); O’Toole (observing the study of leakage in predicting other violent acts is suggestive, but has been limited by the less than uniform definition of the term).

¹⁷ See Heather Stringer, *Empowering Communities to Prevent Mass Shootings: Psychology Research is Informing New Strategies to Reach People at Risk of Committing a Violent Act*, 53 *Monitor on Psychology* (2022).

¹⁸ See Jim Shay & Pat Tomlinson, *Police: Tips Prevented 3 Potential Mass Shootings, Including 1 in CT*, Conn. Post (Aug. 19, 2019), <https://www.ctpost.com/local/article/Police-Tips-prevented-3-potential-mass-shootings-14342621.php>.

¹⁹ Lankford at 331.

militant or terroristic activity.²⁰ Recently published research, supported by the RGVRC, reports that, of 318 mass public shooters between 1966 and 2017, 40% engaged in pre-attack leakage.²¹ Similarly, a descriptive, archival study of 34 adolescent (19 years of age or younger) mass murderers, acting alone or in pairs between 1958 and 1999, concluded that the majority made threats about committing mass murder before carrying out their violent acts.²² Meanwhile, a study of a nonrandom sample of 30 mass murderers in North America from 1948 to 1998, likewise found that more than two-thirds of mass murderers leaked specific or general threats about their intentions before committing violent crimes.²³

More current research concerning mass shooters has yielded consistent findings. A 2019 report from the U.S. Secret Service, for example, found that more than 75% of school shooters communicated their intentions ahead of their attack.²⁴ In 2018, the FBI, with the assistance of the Bureau's Behavioral Analysis Unit, published *A Study Of The Pre-Attack Behaviors Of Active Shooters In The United States Between 2000 And 2013*. That study concluded that 56% of active shooters from 2000-2013 leaked their violent thoughts or intentions pre-incident.²⁵ Another study published in 2018, in the academic peer-reviewed journal *Aggression and Violent Behavior*, found

²⁰ See RGVRC, Mass Shooting Factsheet, at Definition, <https://rockinst.org/gun-violence/mass-shooting-factsheet/> (last visited Aug. 10, 2022).

²¹ Joel A. Capellan, et al., *Deconstructing Mass Public Shootings: Exploring Opportunities for Intervention*, RGVRC (Oct. 2019), <https://rockinst.org/wp-content/uploads/2019/10/10-24-19-Deconstructing-Mass-Shootings-Brief-1.pdf>.

²² J.R. Meloy, et al., *Offender and offense characteristics of a nonrandom sample of adolescent mass murderers*, 40 *Journal of the American Academy of Child and Adolescent Psychiatry* 719-728 (2001).

²³ A.G. Hempel, et al., *Offender and offense characteristics of a nonrandom sample of mass murderers*, 27 *Journal of the American Academy of Psychiatry and the Law* 213-225 (1999).

²⁴ Jaclyn Schildkraut, *Mass Shootings: The Motives Vary, but the Path to Violence is Largely the Same*, Rockefeller Inst. of Gov't (June 3, 2022), <https://rockinst.org/blog/mass-shootings-the-motives-vary-but-the-path-to-violence-is-largely-the-same/> (citing "Protecting America's Schools: A U.S. Secret Service Analysis of Targeted Violence").

²⁵ J Silver, et al., *A study of the pre-attack behaviors of active shooters in the United States between 2000 and 2013*, FBI (2018), <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf>.

that, of 115 public mass murders occurring between 1990 and 2014, 58% of the perpetrators leaked violent intentions before committing their crimes.²⁶ In 2019, the *Journal of Contemporaneous Criminal Justice* published a study of the 15 *deadliest* public mass shootings in the United States occurring between March 1998 and February 2018. The study concluded that 87% of the deadliest public mass shooters leaked violent thoughts or intentions prior to their attacks, and 80% of these shooters leaked their specific intentions to engage in mass killings.²⁷

These findings regarding pre-shooting leakage are consistent with my own research findings. Earlier this year, I authored a case study of the mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida, in the peer-reviewed journal *Homicide Studies*. In my case study, I reviewed numerous studies regarding leakage before school shootings and countless pages of documents retrieved via open-access records and a FOIA request of Broward County that showed the extensive leakage that preceded this particular shooting, and concluded that leakage is common both before school shootings and *averted* school shootings.²⁸ For example, the National Threat Assessment Center published a study in 2021 that concluded that *nearly all* (94%) 67 averted school attack plotters examined in its study leaked their intentions ahead of their attack.²⁹ Similarly, in connection with the extensive research that I conducted in support of my 2019 book, *Columbine, 20 Years Later And Beyond: Lessons From Tragedy*, I examined the crucial role of

²⁶ J. Silver, et al., *Foreshadowing targeted violence: Assessing leakage of intent by public mass murderers*, 38 *Aggression and Violent Behavior*, 94-100 (2018).

²⁷ Lankford at 322-23.

²⁸ Jaclyn Schildkraut, Rebecca Cowan & Tessa M. Mosher, *The Parkland Mass Shooting and the Path to Intended Violence* (2022) (citing O'Toole 2000 and Vossekuil, et al. 2004).

²⁹ *Supra* note 24 (citing *Averting targeted school violence: A U.S. Secret Service analysis of plots against schools*, Nat'l Threat Assessment Center, U.S. Secret Service, U.S. Dep't of Homeland Sec. (2021), <https://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf>)

leakage in foreshadowing mass shootings, and highlighted even more studies that concluded that leakage occurs in a large majority of mass shooting and targeted school violence cases.³⁰

My research, like the research cited above, confirms that mass shooters and others planning mass violence typically leak their intentions in advance of an attack. Consequently, examination of social media accounts is an important step to identify pre-incident leakage that could be used to help avert mass shootings and other acts of violence.

3. Modern Day Leakage Typically Occurs Through Social Media

Pre-shooting leakage can be communicated in a variety of ways, both orally and in writing, and, in today's modern era most leakage often occurs via social media posts.³¹ Studies of mass shooting events show that social media leakage—which can take the form of writings, images, videos, and “likes”—has preceded many mass shootings, including a number of the deadliest mass shootings in this country.³² Moreover, research shows that the serious warning signs, including those conveyed via social media leakage, can appear months in advance of an attack and are therefore “not only visible in hindsight.”³³ The following table, organized chronologically, identifies publicized mass shooting events from the last five years where there was pre-shooting leakage on social media:

Mass Shooting Event	Mass Shooting Date	Pre-Shooting Social Media Leakage
Greenwood Park Mall Greenwood, Indiana (3 killed, 2 injured)	July 17, 2022	Yes, on 4chan ³⁴

³⁰ See Jaclyn Schildkraut & Glenn W. Muschert, *Columbine, 20 Years Later and Beyond: Lessons From Tragedy*, at 59-60, 64.

³¹ Schildkraut, *Mass Shootings*; O'Toole, *The Concept of Leakage*.

³² See FBI, *Making Prevention a Reality: Identifying, Assessing, and Managing the Threat of Targeted Attacks*; Adam Lankford, et al., *Are the Deadliest Mass Shootings Preventable? An Assessment of Leakage, Information Reported to Law Enforcement, and Firearms Acquisition Prior to Attacks in the United States* (2019).

³³ Lankford at 332.

³⁴ See Alan Halaly, *Indiana Mall Shooter Appeared to Post Chilling Messages with Nazi Imagery*, *The Daily Beast* (July 20, 2022 5:17 PM), <https://www.thedailybeast.com/greenwood->

Mass Shooting Event	Mass Shooting Date	Pre-Shooting Social Media Leakage
4th of July Parade Highland Park, Illinois (7 killed, 46 injured)	July 4, 2022	Yes, on YouTube and Discord ³⁵
Robb Elementary School Uvalde, Texas (21 killed, 17 injured)	May 24, 2022	Yes, on Facebook, Instagram, and Yubo ³⁶
Tops Supermarket Buffalo, New York (10 killed, 3 injured)	May 14, 2022	Yes, on Twitch, 4Chan, Discord, and 8Chan ³⁷
Oxford High School Oxford Township, Michigan (4 killed, 7 injured)	November 30, 2021	Yes, on Facebook ³⁸
JC Kosher Supermarket Jersey City, New Jersey (4 killed, 3 injured)	December 10, 2019	Yes, on Facebook ³⁹
Naval Air Station Pensacola Pensacola, Florida (3 killed, 8 injured)	December 6, 2019	Yes, on Twitter ⁴⁰

mall-shooter-jonathan-sapirman-appeared-to-post-chilling-message-on-4chan-with-nazi-imagery.

³⁵ See Ben Collins & Safia Samee Ali, *Highland Park shooting person of interest left online trail of violent imagery*, NBC News (July 5, 2022 7:46 AM), <https://www.nbcnews.com/news/us-news/chicago-shooting-person-interest-left-online-trail-violent-imagery-rcna36628>.

³⁶ See Silvia Foster-Frau, et al., *Before massacre, Uvalde gunman frequently threatened teen girls online*, Tex. Tribune (May 28, 2022 9:00 AM), <https://www.texastribune.org/2022/05/28/uvalde-shooting-gunmen-teen-girls/>; Resse Oxner, *Uvalde gunman legally bought AR rifles days before shooting, law enforcement says*, Tex. Tribune (May 25, 2022 5:00 PM), <https://www.texastribune.org/2022/05/25/uvalde-shooter-bought-gun-legally/>.

³⁷ See Bobby Allyn, *New York attorney general launches probe of Twitch and Discord after Buffalo shooting*, NPR (May 18, 2022 5:32 PM), <https://www.npr.org/2022/05/18/1099827783/new-york-attorney-general-probe-twitch-discord-buffalo-shooting>.

³⁸ See Sonia Moghe & Amir Vera, *Lawsuit alleges Oxford High School administration could have prevented deadly school shooting*, CNN (Jan. 13, 2022 1:03 AM), <https://www.cnn.com/2022/01/13/us/michigan-school-shooter-lawsuit/index.html>.

³⁹ See Michael Gold & Ali Watkins, *Suspect in Jersey City Linked to Black Hebrew Israelite Group*, N.Y. Times (Dec. 11, 2019 12:26 PM), <https://www.nytimes.com/2019/12/11/nyregion/jersey-city-shooting.html>.

⁴⁰ See Nada AlTaher & Nic Robertson, *Saudi behind Navy base rampage appeared to live a double life on social media. Why were red flags missed?*, CNN (Dec. 11, 2019 6:57 AM), <https://www.cnn.com/2019/12/10/middleeast/saudi-pensacola-twitter-intl/index.html>; @M7MD_SHAMRANI, Twitter, https://web.archive.org/web/20191206212201/https://twitter.com/M7MD_SHAMRANI (archived Dec. 6, 2019).

Mass Shooting Event	Mass Shooting Date	Pre-Shooting Social Media Leakage
Walmart El Paso, Texas (22 killed, 26 injured)	August 3, 2019	Yes, on 8Chan ⁴¹
Garlic Festival Gilroy, California (3 killed, 12 injured)	July 28, 2019	Yes, on Instagram ⁴²
Borderline Bar and Grill Thousand Oaks, California (12 killed, 12 injured)	November 7, 2018	Yes, on Facebook ⁴³
Tree of Life Synagogue Pittsburgh, Pennsylvania (11 killed, 6 injured)	October 27, 2018	Yes, on Gab ⁴⁴
Capital Gazette Annapolis, Maryland (5 killed, 2 injured)	June 20, 2018	Yes, on Facebook and Twitter ⁴⁵
Santa Fe High School Santa Fe, Texas (10 killed, 13 injured)	May 18, 2018	Yes, on Facebook and Instagram ⁴⁶
Marjory Stoneman Douglas High School Parkland, Florida (17 killed, 17 injured)	February 14, 2018	Yes, on Instagram and Twitter ⁴⁷

⁴¹ See Shirin Ghaffary, et al., *Here's how Facebook, YouTube, Twitter, and 8chan handle white supremacist content*, Vox (Aug. 4, 2019 5:50 PM), <https://www.vox.com/recode/2019/8/4/20753951/el-paso-dayton-shooting-8chan-twitter-facebook>.

⁴² See Molly Olmstead, *The Gilroy Garlic Festival Gunman Reportedly Posted Racist Comments in the Hours Before the Shooting*, Slate (July 29, 2019 3:49 PM), <https://slate.com/news-and-politics/2019/07/gilroy-garlic-festival-gunman-identified-social-media.html>.

⁴³ See Ventura County Sheriff's Office, *Borderline Mass Shooting Investigative Summary* (Nov. 7, 2018), <https://s29762.pcdn.co/wp-content/uploads/2021/06/20181107OIS2018175110.pdf>.

⁴⁴ See Alex Amend, *Analyzing a terrorist's social media manifesto: the Pittsburgh synagogue shooter's posts on Gab*, Southern Poverty Law Center (Oct. 28, 2018), <https://www.splcenter.org/hatewatch/2018/10/28/analyzing-terrorists-social-media-manifesto-pittsburgh-synagogue-shooters-posts-gab>; *Synagogue Suspect's Guns Were All Purchased Legally, Inquiry Finds*, The New York Times (Oct. 30, 2018), <https://www.nytimes.com/2018/10/30/us/ar15-gun-pittsburgh-shooting.html>.

⁴⁵ See Liz Freeman, *From Naples home, retired publisher of Capital Gazette talks about shooting*, Naples Daily News (June 29, 2018 7:12 PM), <https://www.naplesnews.com/story/news/local/2018/06/29/naples-home-retired-capital-gazette-publisher-talks-shooting/746847002/>.

⁴⁶ See Joe Marino & Ruth Brown, *Suspected Texas shooter was 'weird' but didn't raise red flags*, N.Y. Post (May 18, 2018 10:06 PM), <https://nypost.com/2018/05/18/suspected-texas-shooter-was-weird-but-didnt-raise-red-flags/>.

⁴⁷ See MSD Public Safety Comm'n, *Unreported Information Showing Nikolas Cruz's Troubling Behavior*, <http://www.fdle.state.fl.us/MSDHS/Meetings/November-Meeting-Documents/Nov->

Mass Shooting Event	Mass Shooting Date	Pre-Shooting Social Media Leakage
First Baptist Church Sutherland Springs, Texas (26 killed, 20 injured)	November 5, 2017	Yes, on Facebook ⁴⁸
Weis Markets Eaton Township, Pennsylvania (3 killed)	June 7, 2017	Yes, on Twitter and YouTube (including a film praising the Columbine shooters) ⁴⁹

I include below select examples of social media leakage that conveyed violent intentions and a specific interest in mass killings in advance of a mass shooting incident:

(A) Highland Park Shooter (July 4, 2022). The Highland Park shooter, who killed seven people and injured 46 more at a July Fourth parade last month, had an “extensive online profile” displaying a “fascination with violence” through multiple social media interactions:⁵⁰ he left a “long trail of tributes to mass shootings and public killings on social media platforms,” including YouTube and Discord, and authored multiple disturbing posts over a period of years in advance of the shooting.⁵¹

13-145pm-Cruz-Behavior-Chris-Lyons.aspx; *see also* MSD Public Safety Comm’n, *Initial Report Submitted to the Governor, Speaker of the House of Representatives and Senate President* (Jan. 2, 2019), <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 245-261.

⁴⁸ *See* Jason Hanna & Holly Yan, Sutherland Springs church shooting: What we know, CNN (Nov. 7, 2017), cnn.com/2017/11/05/us/texas-church-shooting-what-we-know/index.html.

⁴⁹ *See* Mark Scolforo & Kristen De Groot, *Supermarket massacre shooter left chilling online trail*, The Spokesman-Review (June 8, 2017 4:30 PM), <https://www.spokesman.com/stories/2017/jun/08/four-dead-in-murder-suicide-in-pennsylvania-super/>; Inspector General, United States Department of Defense, *Report of Investigation into the United States Air Force’s Failure to Submit Devin Kelley’s Criminal History Information to the Federal Bureau of Investigation* (Dec. 6, 2018), https://media.defense.gov/2018/Dec/07/2002070069/-1/-1/1/DODIG-2019-030_REDACTED.PDF at 44-45.

⁵⁰ Rob Elgas, et al., *‘Screaming out for help’: Highland Park shooting suspect’s social media littered with hatred*, ABC 7 (July 5, 2022), <https://abc7chicago.com/mass-shooting-parade-highland-park-suspect-robert-crimo-iii-social-media/12020970/>.

⁵¹ The Highland Park shooter had also previously applied for an Illinois Firearms Owner Identification Card, a requirement of the State of Illinois to legally possess firearms and ammunition in the state.

- Prior to the shooting, the Highland Park shooter posted a video on his then publicly-available YouTube page that cuts between images of a shooter armed with the same type of firearm used in the Highland Park shooting opening fire at apparent civilians, and then engaging with the police, until the shooter lies face-down in a pool of blood.⁵²



- The Highland Park shooter also published a rap track online on October 15, 2021—almost one year before the shooting—with lyrics that appear to “suggest that [the shooter] was planning a life-defining act beyond his ability to stop.”⁵³ The corresponding music video, which was available on YouTube, includes

⁵² Pilar Melendez, et al., *Inside the Murder-Obsessed Posts of Parade Massacre Suspect*, The Daily Beast (July 5, 2022 4:41 PM), <https://www.thedailybeast.com/robert-bobby-crimo-person-of-interest-in-highland-park-parade-massacre-is-rapper-with-creepy-videos>.

⁵³ Tyler O’Neil, *Robert Crimo: Social media history paints dark picture of suspect in deadly mass shooting at Illinois parade*, Fox 32 Chicago (July 4, 2022), <https://www.fox32chicago.com/news/robert-crimo-social-media-history-paints-dark-picture-of-suspect-in-deadly-mass-shooting-at-illinois-parade>.

drawings of a man aiming a rifle at another person, and another image of a victim shot with “blood spraying from the body.”⁵⁴



(B) Buffalo Supermarket Shooter (May 14, 2022). The perpetrator who shot and killed 10 people and injured 3 at a Tops Supermarket in Buffalo, New York, previously posted “thousands of entries” to a “months-long online diary” on Discord that were later shared more widely on 4Chan.⁵⁵ Among other things, the pre-attack posts described the steps the shooter had taken to obtain firearms and other equipment, and the clothes that he planned to wear during the shooting.⁵⁶ In addition, the shooter mapped out his attack on

⁵⁴ *Id.*; Ben Collins & Safia Samee Ali, *Highland Park shooting person of interest left online trail of violent imagery*, NBC News (July 5, 2022 7:46 AM), <https://www.nbcnews.com/news/us-news/chicago-shooting-person-interest-left-online-trail-violent-imagery-rcna36628>.

⁵⁵ See Mark Kungariello, *Alleged Buffalo shooter Payton Gendron’s plans were shared online 30 minutes before deadly racist attack: report*, N.Y. Post (May 18, 2022 3:28 PM), <https://nypost.com/2022/05/18/alleged-buffalo-shooter-payton-gendrons-plan-shared-online-just-before-attack/>.

⁵⁶ See Gabrielle Fonrouge, *Twisted diary of alleged Buffalo shooter Payton Gendron reveals his online radicalization*, N.Y. Post (May 17, 2022 7:12 PM), <https://nypost.com/2022/05/17/twisted-diary-of-alleged-buffalo-shooter-payton-gendron-reveals-his-online-radicalization/>.

social media for months before live-streaming the shooting on Twitch.⁵⁷ Representative examples of the shooter’s extensive online diary follow.⁵⁸

Jimboiii — 12/05/2021

I sold much of my silver at the P and J flea market today, some military stuff too, all in all got 1488 dollars cash (nice). Met a friendly lad by the names of Kevin, he reminds me alot like my cousin Wes, looks and all. He let me see some cool coins in his collection. Gave good advice too on college and jobs, like trying to know the job you want to go for when in college. Asshole who tried to scam me with a fake peace dollar is still there. Everyone else seems fine, especially Millow, Buddha's son. Gave me some relationship advice and told me he cared about me. What a shame I can't use their advice when I'm dead or in prison.

Silver is a nice currency to trade with, fuck the federal reserve and IRS

THE TRUTH ABOUT RACE

The image displays a grid of ten panels, each addressing a common myth about race. Each panel includes a title, a brief explanation, and supporting data or images. The myths are:

- Myth #1: "Race has no biological basis"**: Discusses genetic differences between populations and the concept of biological races.
- Myth #2: "Race is a social construct"**: Explains how racial categories are defined by society and historical context.
- Myth #3: "Race is only skin-deep"**: Shows a color gradient and skull images to illustrate genetic variation within and between groups.
- Myth #4: "Races have more variation within them than between them"**: Compares genetic diversity within groups to diversity between groups.
- Myth #5: "Racial differences in intelligence are explained by socio-economic factors"**: Presents data on IQ scores across different racial groups.
- Myth #6: "There isn't significant genetic distance between races"**: Shows a genetic distance map and discusses the genetic structure of human populations.
- Myth #7: "There isn't qualitative genetic evidence for racial differences"**: Discusses the existence of distinct genetic clusters and traits.
- Myth #8: "Individual successes disprove the relevance of race"**: Argues that individual achievements do not negate the broader genetic and cultural influences of race.

Why commit an attack against others but won't commit suicide if you hate the current world so much? Because I do care about the future

⁵⁷ See Mark Kungariello, *Alleged Buffalo shooter Payton Gendron’s plans were shared online 30 minutes before deadly racist attack: report*, N.Y. Post (May 18, 2022 3:28 PM), <https://nypost.com/2022/05/18/alleged-buffalo-shooter-payton-gendrons-plan-shared-online-just-before-attack/>.

⁵⁸ Gabrielle Fonrouge, *Twisted diary of alleged Buffalo shooter Payton Gendron reveals his online radicalization*, N.Y. Post (May 17, 2022 7:12 PM), <https://nypost.com/2022/05/17/twisted-diary-of-alleged-buffalo-shooter-payton-gendron-reveals-his-online-radicalization/>.

Jimboboiiii — 12/27/2021

~3040 calories from pancakes, ham, donut, chocolate, blueberries, bread, pizza, barbeque chicken

Every time I think maybe I shouldn't commit to an attack I spend 5 min of /pol/, then my motivation returns

-While inside I made the following observation: "Inside: 53 black, 6 white, 2 armed black security with pistols. ~8 black on outside", and made a rough map on the inside. I also ordered a crunch bar at 12:27



-I went to my car and browsed 4chan and reddit for a bit, and at this time I think discord had a crash, so I couldn't browse messages

(C) **Naval Air Station Pensacola Shooting (December 6, 2019).** Months before perpetrating his crime, the Pensacola shooter, a Saudi Arabian national who murdered three U.S. Navy sailors and injured eight others, “posted a message on social media on Sept. 11 . . . that said: ‘the countdown has begun.’” The Pensacola shooter posted other “anti-American, anti-Israeli, and jihadi messages on social media” too, including a retweet, and implicit endorsement, of Jihadi terrorist language, “Without jihad, how could Muslims

protect themselves.” He also posted to Twitter shortly before his attack that he “hate[d]” Americans for “crimes” against Muslims and threatened, Americans “will not be safe” until American troops are “out of our lands.”⁵⁹



(D) Pittsburgh Synagogue Shooter (October 27, 2018). The shooter who used an AR-15 assault rifle and three handguns to kill 11 people at the Tree of Life Synagogue during religious services in Pittsburgh, Pennsylvania was previously active on the social networking site Gab, posting anti-Semitic threats.⁶⁰

⁵⁹ Attorney General William P. Barr Announces the Findings of the Criminal Investigation into the December 2019 Shooting at Pensacola Naval Air Station, U.S. Dep’t of Justice (Jan. 13, 2020), <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-announces-findings-criminal-investigation-december-2019>; see also Nada AlTaher & Nic Robertson, *Saudi behind Navy base rampage appeared to live a double life on social media. Why were red flags missed?*, CNN (Dec. 11, 2019 6:57 AM), <https://www.cnn.com/2019/12/10/middleeast/saudi-pensacola-twitter-intl/index.html>; @M7MD_SHAMRANI, Twitter, https://web.archive.org/web/20191206212201/https://twitter.com/M7MD_SHAMRANI.

⁶⁰ <https://www.nytimes.com/2018/10/30/us/ar15-gun-pittsburgh-shooting.html> (archived Dec. 6, 2019).; Jarrett Renshaw, *Who is Robert Bowers, the Pittsburgh synagogue shooting suspect?*, Reuters (Oct. 29, 2018), <https://www.reuters.com/article/pennsylvania-shooting-suspect-idINKCN1N31SN>; Alex Amend, *Analyzing a terrorist’s social media manifesto: the Pittsburgh synagogue shooter’s posts on Gab*, Southern Poverty Law Center (Oct. 28, 2018),

- Before the Tree of Life shooter began his attack, he posted on Gab, the same social media forum where had previously posted anti-Semitic hate speech, that “[the Hebrew Immigrant Aid Society] likes to bring invaders in that kill our people. I can’t sit by and watch my people get slaughtered. Screw your optics, I’m going in.”⁶¹



(E) Parkland School Shooter (February 14, 2018). The Parkland school shooter, who murdered 17 people and injured 17 others, had an extensive history of publicly available pre-attack leakage on social media accounts:⁶²

- Beginning in August 2017, six months before he carried out the shooting, the Parkland school shooter posted a series of publicly available comments on YouTube that leaked his intentions to shoot and kill.⁶³ A relevant chronology of the shooter’s pre-incident public social media posts follows:

<https://www.splcenter.org/hatewatch/2018/10/28/analyzing-terrorists-social-media-manifesto-pittsburgh-synagogue-shooters-posts-gab>.

⁶¹ *Id.*

⁶² Jaclyn Schildkraut, Jaclyn Schildkraut, Rebecca Cowan & Tessa M. Mosher, *The Parkland Mass Shooting and the Path to Intended Violence* (2022).

⁶³ State Exhibit 437, *Florida v. Cruz* Penalty Phase, July 27, 2022, <https://www.youtube.com/watch?v=M31aOExc6Ts> at 7:40; Dakin Andone & Kevin Conlon, *Parkland gunman spent weeks making violent social media posts and searching online for information about mass shootings, testimony shows*, CNN (July 28, 2022 12:19 PM), <https://www.cnn.com/2022/07/28/us/nikolas-cruz-social-media-online-searches/index.html>.

CREATION DATE:	PRE-ATTACK SOCIAL MEDIA LEAKAGE:
August 30, 2017 5:29:15 PM UTC	<i>I plan on shooting them soon year 2020 date of massacre unknown location unknown some wear in florida</i>
September 2, 2017 6:56:39 PM UTC	<i>Just whana kill people</i>
September 8, 2017 1:51:14 PM UTC	<i>I rather kill people 2020</i>
September 16, 2017 3:53:25 AM UTC	<i>The amount of time it took for the police to come. i thnk this is fake</i>
September 18, 2017 12:25:26 AM UTC	<i>I hide it deep with in and think about killing people</i>
September 18, 2017 12:42:43 AM UTC	<i>The last part makes me scared what happens when i have no one iam 18 still in high school and everyone is on thier way to college while iam their thinking about killing people and ending their lives i haye my life and i whant to take people with me</i>
September 22, 2017 4:21:45 AM UTC	<i>i fucking hate humans</i>
September 24, 2017 11:49:01 PM UTC	<i>Im going to be a professional school shooter</i>
September 28, 2017 5:22:41 PM UTC	<i>My life sucks i failed high school im going to go on a killing rampage</i>
October 10, 2017 5:37:14 AM UTC	<i>Im going to kill a lot of fucking people i hate you all after what happened in las vages I had enough</i>
October 10, 2017 6:36:54 AM UTC	<i>I have no problem shooting a girl in the chest</i>
October 13, 2017 2:13:38 AM UTC	<i>I hate everyone and everything I fucking go into a bad part of town and make a sniper nest and kill people just don't give a fuck about life.</i>
January 17, 2018 4:37:20 AM UTC	<i>I hate people</i>
January 17, 2018 5:52:33 PM UTC	<i>I wanna kill shit ton of people and murder children</i>
January 17, 2018 6:12:30 PM UTC	<i>I wanna kill people</i>
January 30, 2018 4:38:48 AM UTC	<i>I hate people</i>

- On July 10, 2017, the Parkland School shooter posted a graphic picture of a dead toad on his Instagram page, claiming responsibility for killing the toad, and reflecting violent tendencies and a disturbing disregard for life.⁶⁴ As I noted in *The Parkland Mass Shooting and the Path to Intended Violence* (2022),

⁶⁴ MSD Public Safety Comm'n, *Unreported Information Showing Nikolas Cruz's Troubling Behavior*, <http://www.fdle.state.fl.us/MSDHS/Meetings/November-Meeting-Documents/Nov-13-145pm-Cruz-Behavior-Chris-Lyons.aspx>; see also MSD Public Safety Comm'n, *Initial Report Submitted to the Governor, Speaker of the House of Representatives and Senate President* (Jan. 2, 2019), <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>, at 240.

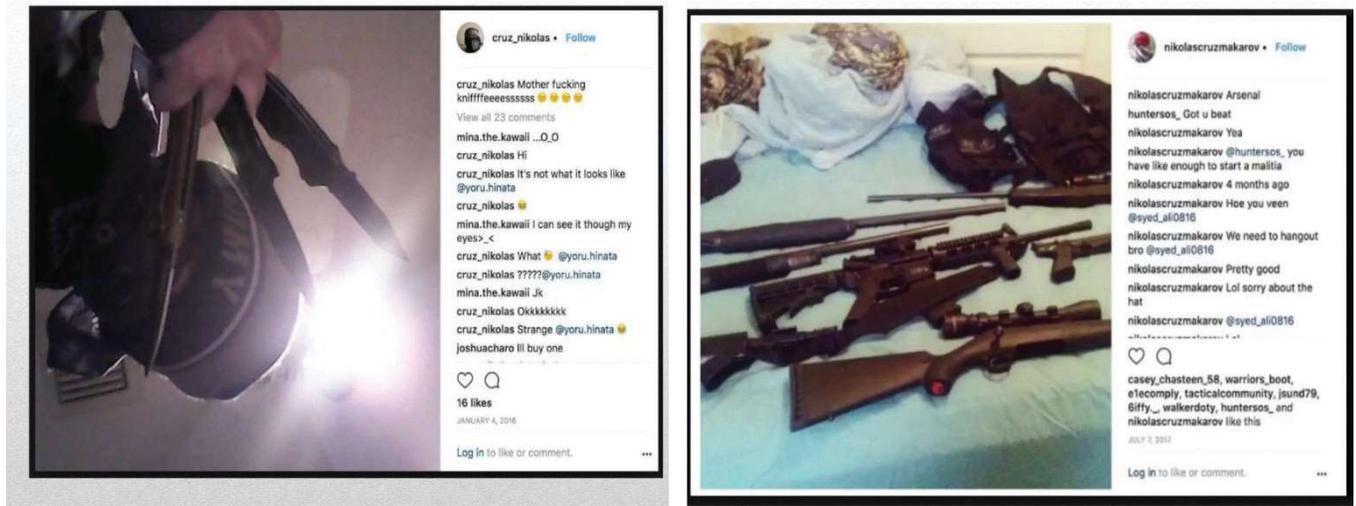
research shows that killing animals is “a precursor behavior of mass shooters, particularly those who are younger, white males.”⁶⁵



- The Parkland School shooter also posted pictures displaying a fascination with knives and guns throughout 2016 and 2017:⁶⁶

⁶⁵ See also Charlie Robinson & Victoria Clausen, *The Link Between Animal Cruelty and Human Violence*, FBI Law Enforcement Bulletin (Aug. 10, 2021), <https://leb.fbi.gov/articles/featured-articles/the-link-between-animal-cruelty-and-human-violence> (research shows a well-documented link between animal cruelty and violence against humans, namely that it is predictive or coexistent).

⁶⁶ *Unreported Information Showing Nikolas Cruz's Troubling Behavior*, MSD Public Safety Comm'n, <http://www.fdle.state.fl.us/MSDHS/Meetings/November-Meeting-Documents/Nov-13-145pm-Cruz-Behavior-Chris-Lyons.aspx>; MSD Public Safety Comm'n, *Unreported Information Showing Nikolas Cruz's Troubling Behavior*, <http://www.fdle.state.fl.us/MSDHS/Meetings/November-Meeting-Documents/Nov-13-145pm-Cruz-Behavior-Chris-Lyons.aspx>, at 245-49.



(F) **Charleston Emanuel African Methodist Episcopal Church Shooter (June 17, 2015).** Before the Charleston shooter purchased and used a handgun to kill 9 people and injure one other person at a church bible study in Charleston, South Carolina, he posted photos containing neo-Nazi symbols and paraphernalia online, including on his website “The Last Rhodesian”, and on a social neo-Nazi forum, the Daily Stormer, under the username, “AryanBlood1488.”⁶⁷



Aryan Blood 1488

September 12, 2014 at 8:20 pm

These days White people are not allowed to defend themselves. If a black attacks you, the establishment wants you to think you should lay down and take it. Thats what they really want, they just want us to roll over and die.

If you do defend yourselves, then you are automatically the agresor, and may get charged with a hate crime yourself, even though you were defending yourself from a hate crime. Its pretty sick stuff.

Anytime white people have defended themselves in history, whether it be through segregation, the KKK, the Crusades, it is made out to be that we are the aggressors, when in reality we are the most persecuted people on Earth.

But one of white people strengths is that we dont see ourselves as victims like all the other races.

Reply

⁶⁷ See Abby Phillip, *Dylann Roof Was Active on White Supremacist Web Forum, Group Says*, <https://www.washingtonpost.com/news/post-nation/wp/2015/06/22/dylann-roof-was-active-on-white-supremacist-web-forum-southern-poverty-law-center-says/> (June 22, 2015).

As numerous studies and the foregoing examples show, perpetrators of mass shootings routinely leak violent intentions through social media, providing overt warning of their hateful thoughts and their desire to inflict violence in advance of their attacks. These warnings are not confined to the dark corners of the web, nor are they limited to the moments immediately preceding an attack—rather, in mass shooting after mass shooting, perpetrators have left extensive trails of social media leakage over the most widely-used social media platforms, conveying their specific desire to shoot and kill for the world to see.

B. Research Regarding Mass Shootings Leakage Is Highly Relevant To Analysis of Concealed Carry Permits

An examination of mass shootings in this country dating back to Columbine reveals a correlation between mass shooters and gun license applicants. According to the *Violence Policy Center*, a national tax-exempt educational organization that works to stop gun death and injury through research, education, advocacy, and collaboration, private individuals with permits to carry concealed handguns were responsible for 37 mass shootings — defined as a fatal shooting involving three or more victims⁶⁸ — in this country that occurred between May 2007 and May 2022.⁶⁹ This data demonstrates that research concerning pre-incident leakage by mass shooters is relevant to any analysis of the CCIA’s social media disclosure requirements.

Based on the research described above, it is my belief that the social media disclosure requirement in the CCIA is reasonable and an appropriate effort to prevent future gun violence. “The idea that identifiable behaviors presage violence is a core concept in the threat assessment literature.”⁷⁰ Given the prevalence of pre-attack leakage, and the fact that more Americans than

⁶⁸ See Violence Policy Center: Mass Shootings, <https://vpc.org/revealing-the-impacts-of-gun-violence/mass-shootings-2/> (last visited on Aug. 13, 2022).

⁶⁹ See *id.*; Violence Policy Center: Concealed Carry Killers, <https://archive.ph/2GOBR#selection-383.1-387.16> (last visited on Aug. 9, 2022).

⁷⁰ J. Silver, et al., *Foreshadowing targeted violence: Assessing leakage of intent by public mass murderers*, 38 *Aggression and Violent Behavior*, 94-100 (2018).

ever before are on social media (nearly three-quarters of American adults and over four-fifths of American teenagers are on at least one social media platform), it is reasonable to estimate that social media leakage is likely to increase.⁷¹ Since mass shootings are typically associated with longer planning periods (nearly all of the 15 deadliest mass shootings in the United States from March 1998 to February 2018 were planned for six months or longer⁷²), there are potentially lengthy trails of leakage on social media that a review of social media postings could uncover. As these posts may help warn of future violence, a review of these posts is an important tool to prevent mass shootings.⁷³

⁷¹ See *Social Media Fact Sheet*, Pew Research Center (Apr. 7, 2021) <https://www.pewresearch.org/internet/fact-sheet/social-media/>; *The Common Sense Caucus: Media Use by Tweens and Teens*, Common Sense (2021), https://www.commonensemedia.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf#page=13

⁷² See Lankford at 331.

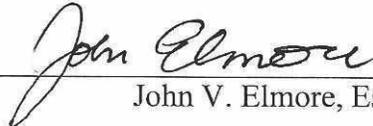
⁷³ See Lankford at 323-30.

CONCLUSION

As demonstrated by research and available statistics concerning mass shootings, other violence, and leakage, the incorporation of a social media disclosure requirement into the CCIA is not foundationless as the Plaintiffs contend, and could actually result in prevention of mass shootings. The Plaintiff's attack on the social media requirement in the CCIA fails to acknowledge or recognize the ample research supporting such a requirement as an important tool to prevent acts of violence.

DATED: August 17, 2022

Respectfully submitted,

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