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9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12 **SOUTHERN DIVISION**

13 STEVEN RUPP, et al.,

14 Plaintiffs,

15 vs.

16 ROB BONTA, in his official capacity as  
17 Attorney General of the State of  
18 California,

19 Defendant.  
20

Case No.: 8:17-cv-00746-JLS-JDE

**EXPERT WITNESS REBUTTAL  
REPORT OF CLAYTON  
CRAMER**

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1 **I. Purpose**

2 This Expert Declaration and Report analyzes Prof. Roth’s Supplemental  
3 Expert Report concerning the “history of homicides and mass murders.” There is  
4 much merit in Prof. Roth’s analysis of the history of murder in America. I take  
5 exception primarily to his interpretation of the influence of firearms technology on  
6 murder and mass murder in particular.

7 **II. Early American Murder Weapons**

8 **A. Gun Scarcity**

9 On p. 9: “Approximately 50 to 60 percent in the colonial and Founding eras  
10 owned a working firearm...” The question of how widespread firearm ownership  
11 was in the colonial era became an important question in 2000 because of Prof.  
12 Michael Bellesiles’ groundbreaking, and as it turned out, fraudulent work *Arming*  
13 *America*. Prof. Bellesiles claimed that firearms ownership in the period 1765-1790  
14 was in all regions less than 20% of probate inventories, and many of these were  
15 listed as “broken or defective.”<sup>1</sup>

16 The defectiveness of these claims was thoroughly demonstrated in a William  
17 and Mary Quarterly issue devoted to analysis of Bellesiles’ claims. Gloria Main  
18 showed that probate records of that period were often less than complete.<sup>2</sup> Another  
19 paper demonstrated that that other probate inventory surveys show much higher  
20 numbers than Bellesiles claimed, and that attempting to replicate his results from the  
21 probate inventories he purported to have read showed wide discrepancies.<sup>3</sup>

22 Subsequent investigation revealed that Bellesiles had claimed to have visited  
23 archives that had no record of his visits, where he claimed to have read probate

24 \_\_\_\_\_  
25 <sup>1</sup> Michael Bellesiles, *Arming America: The Origins of American Gun Culture* 13,  
445 (2000).

26 <sup>2</sup> Gloria L. Main, “Many Things Forgotten: The Use of Probate Records in  
*Arming America*,” 59:1 WILLIAM AND MARY QUARTERLY 2111-16 (Jan. 2002), .

27 <sup>3</sup> James Lindgren and Justin L. Heather, ‘Counting Guns in Early America.’ 59:1  
28 WILLIAM AND MARY QUARTERLY 1777-78 (Jan. 2002) .

1 inventories lost in the 1906 San Francisco earthquake and fires. He also read  
2 probate inventories at a courthouse in Vermont in a county that does not and has  
3 never existed.<sup>4</sup>

4 As the immensity and brazenness of Bellesiles’ fraud became evident, Emory  
5 University convened a panel of distinguished historians to evaluate the accusations.  
6 Their report was damning. Along with criticizing use of non-existent sources, and  
7 careless research methods, “Here is a clear admission of misrepresentation, since the  
8 label on column one in Table One clearly says "1765-1790." If Professor Bellesiles  
9 silently excluded data from the years 1774-1776, as he asserts, precisely because  
10 they failed to show low numbers of guns, he has willingly misrepresented the  
11 evidence.”<sup>5</sup>

12 That said, is there any reason to doubt the validity of Prof. Roth’s claim that  
13 “50 to 60 percent of households” owned a working firearm, which is consistent with  
14 non-Bellesiles probate inventories? First, there are no registration records from  
15 which to gather such data. Probate inventories are the only practical method to  
16 create such counts.

17 My own limited analysis of probate inventories from Connecticut for the years  
18 1639 to 1663 found that 71 percent “explicitly list guns, or list ‘armes an  
19 ammunition,’ for a total of 41 guns. (Excluded are William Whiting’s ‘two great  
20 guns,’ cannons on board his ship.)” Plymouth inventories

21 for the period 1628–1687 reveals similar results: 90 (66.7 percent)  
22 included at least one firearm.<sup>6</sup> There was an average of 1.48 guns per

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23 <sup>4</sup> James Lindgren, “Fall from Grace: Arming America and the Bellesiles  
24 Scandal,” 111:8 YALE LAW JOURNAL 2195, 2211, 2210 (Jun. 2002), .

25 <sup>5</sup> “REPORT of the Investigative Committee in the matter of Professor Michael  
26 Bellesiles,” Jul. 10, 2002, 18,  
[https://www.emory.edu/central/NEWS/Releases/Final\\_Report.pdf](https://www.emory.edu/central/NEWS/Releases/Final_Report.pdf), last accessed  
27 January 17, 2023.

28 <sup>6</sup> See Patricia Scott Deetz, Christopher Fennell, and J. Eric Deetz, *The Plymouth  
Colony Archive Project* “Analysis of Selected Probate Inventories,” available at

1 inventory for all estates, or 2.22 guns per inventory among those estates  
2 that listed at least one gun. The largest number of guns was 38,  
3 belonging to Thomas Willett, a very wealthy man of some importance.  
4 <sup>7</sup> The value of the firearms averaged £1:0:8, and like the Connecticut  
5 probate inventories, because firearms were assessed together with other  
6 goods, this represents a maximum value. Like Connecticut, guns are  
7 more commonly associated with male probate inventories than female,  
8 but two out of eight female probate inventories at Plymouth Colony  
9 listed firearms—two firearms in each of these two estates.<sup>8</sup>

10 How common were guns in New York? A search for “gun,” “pistol,” and  
11 “fowling piece” in a data base of New York City wills and estate inventories from  
12 1665 through 1790 found hundreds of matches.<sup>9</sup> The context demonstrates that guns  
13 were personally owned, and that some people owned multiple guns. One such  
14 example was Solomon Peters, a prosperous free black New York farmer at the close  
15 of the seventeenth century.<sup>10</sup> His 1694 will bequeathed his guns, swords, and pistols  
16 to his sons.

17 Probate inventories necessarily are biased towards the elderly. Death,  
18 unsurprisingly, is more an old people’s activity. Would elderly people be less likely  
19 to own firearms? Almost every colony mandated that men of military age possess or

20 <http://etext.lib.virginia.edu/users/deetz/Plymouth/probates.html> for a list of selected  
21 probate inventories. While I make no pretense that these inventories were randomly  
22 selected, they were not selected by me, and there is no reason to assume that they are  
23 unrepresentative with respect to the presence of guns.

24 <sup>7</sup> Thomas Willett, *Plymouth Colony Wills* 3:117-128, excerpted in Deetz, Fennell,  
25 and Deetz, *The Plymouth Colony Archive Project*, available at  
26 <http://etext.lib.virginia.edu/users/deetz/Plymouth/P231.htm>.

27 <sup>8</sup> Margaret Carpenter, *Plymouth Colony Wills* 3(2):37-38, excerpted in Deetz,  
28 Fennell, and Deetz, *The Plymouth Colony Archive Project*, available at  
29 <http://etext.lib.virginia.edu/users/deetz/Plymouth/P278.htm> and Alice Bradford,  
30 *Plymouth Colony Wills* 3:3-5, excerpted in Deetz, Fennell, and Deetz, *The Plymouth  
31 Colony Archive Project*, available at  
32 <http://etext.lib.virginia.edu/users/deetz/Plymouth/P178.htm>.

33 <sup>9</sup> Chris Tami, *New York City Wills* 1-11 (Orem, Utah: Ancestry, Inc., 1998-99) on  
34 <http://www.ancestry.com> under “New York City Wills.”

35 <sup>10</sup> Joyce Hansen and Gary McGowan, *Breaking Ground, Breaking Silence: The  
36 Story of New York’s African Burial Ground* 51 (1998).

1 be provided by their employer or family with a musket for militia duty.<sup>11</sup> Men  
2 appear to have often owned firearms for hunting.<sup>12</sup> Without the legal obligation to  
3 possess firearm and with the ravages that age imposes, including declining eyesight  
4 (in an era before optical sights existed for firearms) and the loss of stamina, it seems  
5 likely that probate inventories understate the prevalence of firearms. How much do  
6 they understate it? That is an interesting research question.

7 **B. Muzzle Loading Firearms**

8 Prof. Roth argues that many characteristics of muzzle loading firearms made  
9 them less likely to be used for murder. His claims about these characteristics and  
10 their impact on their use for murder bear careful inspection. On p. 10: “Fowling  
11 pieces, like muskets, were muzzle-loading.” The single shot nature of a muzzle  
12 loader certainly slowed down their use for mass murder, at least in a short period of  
13 time. The relative scarcity of murders, public or private, in New England is just as  
14 plausibly a product of a culture that put enormous stock in its religious values. It as  
15 adequately explains the low murder rate both absolutely and relative to the  
16 Chesapeake colonies as the state of firearms technology explains it.

17 If you intend to murder several people in a short period of time, an ax or a  
18 knife remains a sufficient weapon. They are cheap and silent. They draw no  
19 attention to your actions or provide warning to other potential victims.

20 But having raised the question of “[f]amily, household, and intimate partner  
21 homicides,” examination of mass murders in the 17<sup>th</sup> and 18<sup>th</sup> century demonstrates  
22

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23 <sup>11</sup> See “Militia Statutes,”  
24 <https://claytoncramer.com/primary/primary.html#MilitiaLaws>, last accessed January  
25 17, 2023, for a collection of such mandatory possession statutes for the following  
26 colonies: Connecticut, Delaware, Georgia, Maryland, Massachusetts, New  
27 Hampshire, New Haven, New Jersey, New York, North Carolina, Pennsylvania,  
28 Plymouth, Rhode Island, South Carolina, and Virginia.

<sup>12</sup> Clayton E. Cramer, ARMED AMERICA 63-64, 68-75 (2006) (collecting surviving anecdotal evidence of colonial era hunting).

1 that firearms were not at all necessary for mass murder. While some of these  
2 incidents involve more than one murderer, several did not.

3 **Wethersfield, Conn. (1686)**

4 01/07/1686, the murderer killed two with an axe, and attempted murder of one other.  
5 It appears that the killer, an Indian, felt “the derision of his own people’ for having  
6 drawn a weapon at a trading post, a breach of protocol which made him  
7 infamous...” among his own people.”<sup>13</sup>

8 **Washington, Conn. (1780)**

9 Feb. 3, 1780, an employee of Caleb Mallory and the employee’s brother robbed then  
10 murdered Caleb and wife, and their three grandchildren. The weapons used: club,  
11 arson.<sup>14</sup>

12 In the early 19<sup>th</sup> century, when muzzle loading flintlocks remained the only firearm  
13 technology (matchlocks and wheellocks being antique by this point), mass murders  
14 continued.

15 **Clarksburg, Virginia (1805)**

16 11/10/1805: A father murdered his wife and eight children with an ax. While found  
17 guilty, there was substantial evidence of mental illness.<sup>15</sup>

18 **Hallowell, Me. (1806)**

19 07/09/1806, The father murdered his wife and seven of his eight children with an  
20 axe or knife before killing himself with a knife.<sup>16</sup>

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22 <sup>13</sup> Roth and Dayton, “Homicide among Adults: Connecticut homicides, 1630-  
23 1710,” 124.

24 <sup>14</sup> Roth and Dayton, “Homicide among Adults: Connecticut homicides, 1771-  
25 1797,” 68.

25 <sup>15</sup> “Trial of Abel Clements, “[Edinburgh, Scotland] *Caledonian Mercury*, Aug.  
26 25, 1806, 4.

26 <sup>16</sup> Laurel Thatcher Ulrich, *A Midwife’s Tale: The Life of Martha Ballard, Based*  
27 *on her Diary, 1785-1812*, (New York, Random House, 1990), 291-307; *Horrid*  
28 *Murder! At an early hour on Wednesday morning last, the inhabitants of this town*  
*were alarmed with the dreadful information...*, (Augusta, Me., 1806), 1.

1 Even when a firearm is in use, it is sometimes not the only weapon.

2 **Madison Co., Ind. (1824)**

3 03/22/1824, seven whites “decoyed” three Indians away from their women and  
4 children, shot them, killing two, then returned to their camp, murdering ten women  
5 and children. To cast possible blame on other Indians, “Their bodies were most  
6 shockingly mangled.” After one of the boys who committed the murders turned  
7 states’ evidence against the rest, they made “a full confession.” At least two were  
8 shot; at least one baby killed “by taking it by the heels and beating its brains out  
9 against a tree.”<sup>17</sup>

10 On p. 10: “Fowling pieces were manufactured specifically to hunt birds and  
11 control vermin, so they were designed to fire shot, primarily, rather than ball, and  
12 were of lighter construction than muskets.” The manufacturing intent in no way  
13 affects the use to which it might be misused.

14 While shot was the intended projectile, fowling pieces were certainly capable  
15 of firing ball for military use. Colonial and Revolutionary accounts repeatedly show  
16 that fowling pieces were considered military arms. Near the end of Bacon’s  
17 Rebellion, Governor Berkeley’s forces captured “four hundred English and Negroes  
18 in arms” and confiscated about 500 muskets and fowling pieces.<sup>18</sup> The Virginia  
19 Committee of Safety on June 19, 1776 directed delivery of shot to “Captain  
20 Washington of the fourth Battalion”<sup>19</sup>—which is what we would expect if large  
21 numbers of militiamen were armed with fowling pieces, not muskets.

22 At the start of the Revolution, the backcountry North Carolina Regulators  
23 sided with the Crown against what they perceived as their low country oppressors.  
24 Governor Martin, writing from a Royal Navy warship off Cape Fear on January 12,

25 \_\_\_\_\_  
26 <sup>17</sup> “Horrid Barbarity,” *Hillsborough [N.C.] Recorder*, Apr. 28, 1824, 3.

27 <sup>18</sup> Washburn, *Governor and the Rebel*, 88.

28 <sup>19</sup> H.R. McIlwaine, ed., *Journals of the Council of the State of Virginia* (1931),  
1:30.

1 1776, informed the Earl of Dartmouth that between two and three thousand of the  
2 former Regulators were ready to join the Loyalist cause, “although not half of them  
3 are provided with arms....”<sup>20</sup> The Regulators were generally poor, and at least five  
4 hundred had voluntarily turned in their arms in 1771. Yet somewhat less than half  
5 of them were armed *before* the British government could supply them with weapons.  
6 Governor Martin’s letter of March 21 to Lord George Germain claimed that two to  
7 three thousand Regulators were now “well armed,” which would only be consistent  
8 with his letter of January 12 if the British government had supplied guns to the more  
9 than half that were unarmed.<sup>21</sup>

10 In early March, there is a description of the arms captured from these  
11 Regulators. The report is ambiguous as to whether the captured arms were supplied  
12 by the British government or were the personal property of the Regulators. The  
13 Revolutionaries had “taken 350 guns and shot-bags; about 150 swords and dirks;  
14 1,500 excellent rifles....” *Some* of the captured materials were almost certainly  
15 supplied by the British to the Regulators. The rifles, however, and the description of  
16 “shot-bags” (more appropriate to fowling pieces than military muskets) suggest that  
17 the Regulators were armed for war with the traditional hunting weapons of the  
18 American frontier.<sup>22</sup>

19 Guns used by the Continental Army came in a bewildering array of calibers  
20 and types, reflecting the diversity of privately owned hunting weapons. Baron von  
21 Steuben (a German army officer whose noble title later turned out to be  
22 rather...creatively acquired), attempting to drill Continentals at Valley Forge in  
23  
24

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25 <sup>20</sup> William L. Saunders, ed., 10 *The Colonial Records of North Carolina* 406  
26 (1890).

27 <sup>21</sup> Governor Martin to Lord George Germain, William L. Saunders, ed., 10 *The*  
*Colonial Records of North Carolina* 489 (1968).

28 <sup>22</sup> Saunders, 10 *The Colonial Records of North Carolina* 485-6 (1968).

1 1778, complained about the lack of uniformity of the firearms the soldiers carried:  
2 “muskets, carbines, fowling pieces, and rifles were found in the same company.”<sup>23</sup>  
3 Washington indicated that there were many guns in private hands that, while not  
4 well-suited to military use, were certainly functional: “It is to be wished, that every  
5 Man could bring a good Musket and Bayonet into the field, but in times like the  
6 present, we must make the best shift we can, and I wou’d therefore advise you to  
7 exhort every Man to bring the best he has. A good fowling Piece will do execution  
8 in the hands of a Marksman.”<sup>24</sup> The 1784 Georgia militia law required “those  
9 liable” to appear “completely armed and furnished with one rifle musket, fowling-  
10 piece or fusee fit for action” along with ammunition.<sup>25</sup>

11 Even today, a shotgun can be a fearsome weapon of mass murder. The 2013  
12 Navy Yard mass murderer used a Remington 870 shotgun. The surveillance photo  
13 shows that he had installed the three-round magazine tube extension.<sup>26</sup> (I recognize  
14 the gun and the magazine extension. I have one identical to it.) Even without the  
15 extension, my experience is that I can reload a Remington 870 fast enough that the  
16 magazine extension provides only limited improvement in speed of fire.

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21 <sup>23</sup> M.L. Brown, *Firearms in Colonial America: The Impact on History and*  
22 *Technology 1492-1792* 306 (1980).

23 <sup>24</sup> George Washington, John C. Fitzpatrick, ed., 9 THE WRITINGS OF GEORGE  
24 WASHINGTON, FROM THE ORIGINAL MANUSCRIPT SOURCES, 1745-1799 (1931-44)  
140-41; see also 7:123.

25 <sup>25</sup> Allen D. Candler, comp., 19(part 2) THE COLONIAL RECORDS OF THE STATE OF  
26 GEORGIA 348-56 (1911).

27 <sup>26</sup> Peter Hermann and Ann E. Marimow, “Navy Yard shooter Aaron Alexis  
28 driven by delusions,” WASHINGTON POST, Sep. 25, 2013,  
[https://www.washingtonpost.com/local/crime/fbi-police-detail-shooting-navy-yard-shooting/2013/09/25/ee321abe-2600-11e3-b3e9-d97fb087acd6\\_story.html](https://www.washingtonpost.com/local/crime/fbi-police-detail-shooting-navy-yard-shooting/2013/09/25/ee321abe-2600-11e3-b3e9-d97fb087acd6_story.html), last  
accessed January 17, 2023.

1 The 1988 mass murderer at ESL Inc. in Sunnyvale, California carried two pistols, a  
2 .30-06 high-powered rifle and a 12-gauge shotgun. News reports tell us that he used  
3 the shotgun to murder seven and injure four.<sup>27</sup>

4 On p. 11: “And muzzle-loading guns were difficult to keep loaded for any  
5 length of time, because black powder absorbed moisture and could corrode the barrel  
6 or firing mechanism or make the charge liable to misfire.” Prof. Roth makes a  
7 perfectly logical claim, but one that seems contrary to the practices of the time.  
8 Massachusetts Governor Winthrop’s journal reports several accidental deaths or  
9 injuries caused by colonists failing to follow this very logical action:

10 At a training at Watertown, a man of John Oldham's, having a musket,  
11 which had been long charged with pistol bullets, not knowing of it, gave  
12 fire, and shot three men, two into their bodies, and one into his hands;  
13 but it was so far off, as the shot entered the skin and stayed there, and  
14 they all recovered.<sup>28</sup>

13 And:

14 Three men coming in a shallop from Braintree, the wind taking them  
15 short at Castle Island, one of them stepping forward to hand the sail,  
16 caused a fowling piece with a French lock, which lay in the boat, to go  
17 off. The whole charge went through the thigh of one man within one  
18 inch of his belly, yet missed the bone, then the shot (being goose shot)  
19 scattered a little and struck the second man under his right side upon his  
20 breast, so as above 40 shot entered his body, many into the capacity of  
21 his breast.<sup>29</sup>

19 And:

20 One Richard Sylvester, having three small children, he and his wife  
21 going to the assembly, upon the Lord's day, left their children at home.  
22 The eldest was without doors looking to some cattle ; the middle-most,  
23 being a son about five years old, seeing his father's fowling piece, (being  
24 a very great one, ) stand in the chimney, took it and laid it upon a stool,

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24 <sup>27</sup> Jay Mathews, “Sudden Death in Sunnyvale,” WASHINGTON POST, Feb. 18,  
25 1988, [https://www.washingtonpost.com/archive/politics/1988/02/18/sudden-death-  
in-sunnyvale/4f50e5d7-0804-4a56-a2af-ced693c3b577/](https://www.washingtonpost.com/archive/politics/1988/02/18/sudden-death-in-sunnyvale/4f50e5d7-0804-4a56-a2af-ced693c3b577/), last accessed January 17,  
26 2023.

27 <sup>28</sup> John Winthrop, James Kendall Hosmer, ed., 1 *Winthrop’s Journal: “History of  
New England” 1630-1649* (1908), 83.

28 <sup>29</sup> *Id.* 2:55.

1 as he had seen his father do, and pulled up the cock, (the spring being  
2 weak,) and put down the hammer, then went to the other end and blowed  
3 in the mouth of the piece, as he had seen his father also do, and with  
4 that stirring the piece, being charged, it went off, and shot the child into  
5 the mouth and through his head.<sup>30</sup>

4 And:

5 It is observable that this man had gathered some providences about such  
6 as were against them, as that Mr. Winslow's horse died, as he came  
7 riding to Boston; that his brother's son ( a child of eight years old) had  
8 killed his own sister (being ten years of age) with his father's piece, etc.,  
9 and his great trouble was, least this providence which now befell him,  
10 should be imputed to their cause.<sup>31</sup>

9 These four incidents of firearms kept loaded when not in active use resulting  
10 in misadventure are in *one* book. How many of these loaded firearms sat quietly in  
11 there place, refusing to fire?

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26 \_\_\_\_\_  
27 <sup>30</sup> Id., 2:72.

28 <sup>31</sup> Id., 2:317.

1 Finally, one more evidence that Americans did not keep firearms unloaded  
2 except when ready for use with any great regularity. In 1783, Massachusetts passed  
3 a statute that shows firearms were kept loaded regularly enough to justify a law  
4 regulating it:

5  
6 An act in addition to the several acts already made for the  
7 prudent storage of Gun powder within the town of Boston.  
8 [Passed March 1, 1783.]

9 WHEREAS the depositing of loaded arms in the houses of the  
10 town of Boston, is dangerous to the lives of those who are dis-  
11 posed to exert themselves when a fire happens to break out in  
12 said town.

13 [1] SEC. 1. Be it enacted by the Senate and House of  
14 Representatives in General Court assembled and by the au-  
15 thority of the same, That if any person shall take into any  
16 dwelling house, stable, barn, out house, ware house, store,  
17 shop or other building within the town of Boston, any cannon,  
18 swivel, mortar, howitzer, cohorn, or fire arm, loaded with or  
19 having gunpowder in the same, or shall receive into any dwel-  
20 ling house, stable, barn, out house, store, ware house, shop, or  
21 other building within said town, any bomb, grenade, or other  
22 iron shell, charged with, or having gun powder in the same,  
23 such person shall forfeit and pay the sum of ten pounds, to be  
24 recovered at the suit of the Firewards, [duties of Firewards  
25 transferred to Engineers,] of the said towns, in an action of  
26 debt before any court proper to try the same; one moiety  
27 thereof, to the use of said Firewards, and the other moiety to  
28 the support of the poor of said town of Boston.

29 The preamble is clear: this is a fire safety statute. You were free to keep small  
30 arms, cannon and a variety of other types of artillery, bombs, and grenades at home,  
31 as long as they were unloaded. Why was their a need for such a law unless firearms  
32 (and artillery) were at least occasionally left loaded?

33 On pp. 11-12: “Otherwise, however, colonists seldom went about with loaded  
34 guns, except to hunt, control vermin, or muster for militia training.” Prof. Roth’s  
35 argument seems to be that murders were rare because loaded firearms were not  
36 immediately at hand during domestic disputes. This might be a persuasive argument  
37

1 about murder in general, but mass murderers are seldom people who lose their  
2 temper in a fit of rage and grab a gun from the closet. The recent era's mass murders  
3 are almost always carefully planned, premeditated crimes.

4 **III. California's Gun Law History**

5 **A. The 1923 Law**

6 Prof. Roth discusses California's gun law history but seems unaware of its  
7 racist origins. A variation of the Uniform Revolver Act passed in several American  
8 states in the 1920s; the 1923 law enhanced the punishments for various crimes  
9 committed with a handgun,<sup>32</sup> made carrying a handgun without a permit evidence of  
10 intention to commit a felony,<sup>33</sup> required a concealed weapon permit anywhere in the  
11 state (not just in cities),<sup>34</sup> and also prohibited possession of concealable handguns by  
12 anyone who was not a U.S. citizen.<sup>35</sup>

13 What motivated passage of this law? Legislative documents are astonishingly  
14 sparse on the reasons, but as is often the case, newspaper coverage is more  
15 forthcoming. Governor Friend W. Richardson signed the law after R. T. McKissick,  
16 "president of the Sacramento Rifle and Revolver Club," argued that this law  
17 preserved the "rights of those using firearms for competition or hunting or for  
18 protection in outing trips." McKissick was concerned that a more stringent gun  
19 control law might be passed if Governor Richardson vetoed this one. McKissick  
20 admitted that the provision prohibiting handgun ownership by non-citizens was of  
21 questionable constitutionality, but that he believed that if it was upheld, it would  
22 have a beneficial effect "in checking *tong* [gang] wars among the Chinese and  
23 vendettas among our people who are Latin descent."<sup>36</sup>

24 \_\_\_\_\_  
25 <sup>32</sup> Stats. 1923, ch. 339, § 3.

26 <sup>33</sup> *Id.*

27 <sup>34</sup> Stats. 1923, ch. 339, § 5.

28 <sup>35</sup> Stats. 1923, ch. 339, § 2.

<sup>36</sup> *New Firearms Law Effective on August 7*, SAN FRANCISCO CHRONICLE, July  
15, 1923, at 3, col. 1.

1 Why did Richardson sign a law with racist intentions? When Richardson ran for  
2 governor in 1922, he would not answer the question of whether he was a member of  
3 the Ku Klux Klan—but the Klan enthusiastically endorsed Richardson.<sup>37</sup>

4 With such blunt statements of racist intent, not surprisingly, the discriminatory  
5 effect of the new law was immediately recognized. The Mexican consul in Los  
6 Angeles protested the alien handgun ban, since “a large proportion of the foreigners  
7 in California were of Mexican descent.”<sup>38</sup> Mexican immigrants, being white, could  
8 at least apply for citizenship. Asian immigrants were ineligible for  
9 naturalization<sup>39</sup>—and therefore were breaking the law if they owned a handgun.  
10 The California legislature has admitted the racism involved. “Among other things,  
11 these laws denied the Chinese in California the right to own land or property, the  
12 right to vote, and the right to marry a white person, denied children of Chinese  
13 descent access to public schools, denied Chinese immigrants *the right to bear*  
14 *arms*”<sup>40</sup> [emphasis added]

## 15 **B. The 1917 Law**

16 The 1923 law is bluntly racist. The 1917 law is more in the category of  
17 suspicious. In 1917, California again passed a concealed weapon statute. Instead of  
18 completely prohibiting concealed carry (as the 1863 law had done), this law made it  
19 a misdemeanor to carry concealed firearms in cities without a license—and a felony  
20 for those previously convicted of a felony. (It was still legal to carry concealed in  
21  
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23 <sup>37</sup> David M. Chalmers, HOODED AMERICANISM: THE HISTORY OF THE KU KLUX  
24 KLAN 124 (1981, 3<sup>rd</sup> ed.).

24 <sup>38</sup> Ricardo Romo, EAST LOS ANGELES: HISTORY OF A BARRIO 157 (1983).

25 <sup>39</sup> *The Immigration and Nationality Act of 1952 (The McCarran-Walter Act)*, U.S.  
26 Department of State, <https://history.state.gov/milestones/1945-1952/immigration-act>,  
last accessed January 17, 2023.

26 <sup>40</sup> California Assembly Concurrent Resolution No. 42.

27 [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200920100ACR](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200920100ACR42)  
28 [42](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200920100ACR42)

1 unincorporated areas.)<sup>41</sup> Also for the first time, California required registration of  
2 handgun sales, with a “Dealers’ Record of Sale” mailed to local law enforcement.<sup>42</sup>  
3 What provoked the legislature to again pass a statewide law? I have spent a bit of  
4 time trying to find the reason, without finding completely persuasive evidence.  
5 What I have found, however, suggests that racism played a role. In the previous  
6 year, California experienced a burst of anti-Mexican sentiment as a result of Pancho  
7 Villa’s cross-border raid on Columbus, New Mexico. Even conservative Republican  
8 newspapers such as the *Los Angeles Times* (this was obviously a long time ago),  
9 which was far less prejudiced about race than most newspapers of the era, went off  
10 the deep end in their fear and hatred of Mexicans, many of whom were refugees  
11 from the Mexican Revolution.<sup>43</sup>

12 In Los Angeles, Police Chief Snively feared that Mexicans sympathetic to  
13 Pancho Villa might take up arms, and gave orders that lacked any legal authority:

14 Acting under orders from Chief Snively, the police department  
15 yesterday took drastic action to prevent any local outburst on the part  
16 of Villa sympathizers. The cordon of officers thrown about the Mexican  
17 quarter was extended and reinforced and the embargo against the sale  
of arms and liquor to Mexicans amplified and made general....<sup>44</sup>

18 The article described the measures taken as being

19 for the benefit of Mexicans who have become excited over the action  
20 of the Federal government against Villa and who have made threats of  
vengeance and violence...

21 No liquor will be sold to Mexicans showing the least sign of  
22 intoxication.

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24 <sup>41</sup> James H. Deering, comp., SUPPLEMENT TO THE CODES AND GENERAL LAWS OF  
25 THE STATE OF CALIFORNIA Act 889 §§ 3, 6 (San Francisco: Bancroft-Whitney Co.,  
1917).

26 <sup>42</sup> *Id.*, Act 889 § 7.

27 <sup>43</sup> See Clayton E. Cramer, *Race and Reporting: The Los Angeles Times in Early 1916*, available at  
<http://www.claytoncramer.com/unpublished/LATimesAndRace.pdf> (for a detailed examination of changes in reporting  
as a result of the Villa raid).

28 <sup>44</sup> *Draw Teeth of War Breeders*, LOS ANGELES TIMES, March 14, 1916, at 2:1.

1 No guns can be sold to Mexicans and all dealers who have used guns  
2 for window displays have been ordered to take them from the windows  
3 and to show them to no Mexican until the embargo is lifted.<sup>45</sup>

4 At least part of what might have provoked Chief Snively unlawful actions was that:

5 Three admitted anarchists, priding themselves upon being disciples of  
6 the Magon brothers and all heavily armed, were taken into custody on  
7 charges of carrying concealed weapons [contrary to city ordinance] and  
8 were given sixty-day sentences by Police Judge White....<sup>46</sup>

9 The Magon brothers had no connection to Villa. Quite the opposite, the  
10 Magon brothers regarded Villa as “just another parasite” preventing a socialist  
11 revolution in Mexico.<sup>47</sup> Chief Snively seems to have missed these distinctions.  
12 Nonetheless, there were some significant political demonstrations of pro-Villa  
13 support among Mexicans living in Los Angeles, and it appears that Mexicans  
14 immigrants were buying guns in what appeared to be unusual numbers.

15 News accounts suggest that these purchases, primarily of “heavy revolvers,”  
16 might have been for defensive purposes. The Villa raid had inflamed anti-Mexican  
17 sentiment among Americans all along the border, and many Mexicans appeared to  
18 be buying handguns because they were afraid of being attacked, not to be  
19 aggressive.<sup>48</sup> Was the statewide concealed weapon permit law—and the handgun  
20 registration requirement—driven by the somewhat understandable concern about  
21 Pancho Villa supporters in California? It is an interesting question, and one that  
22  
23

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24 <sup>45</sup> *Id.*

25 <sup>46</sup> *Id.*

26 <sup>47</sup> Colin M. MacLachlan, ANARCHISM AND THE MEXICAN REVOLUTION: THE  
27 POLITICAL TRIALS OF RICARD FLORES MAGON IN THE UNITED STATES 64 (1991).

28 <sup>48</sup> *Draw Teeth of War Breeders*, LOS ANGELES TIMES, March 14, 1916, at 2:1,  
2:2; *State Troops Ready for War*, LOS ANGELES TIMES, March 27, 1916, at 1:9; *For  
the Safety of Los Angeles*, LOS ANGELES TIMES, March 16, 1916, at 2:4.

1 requires more research. A search of California newspapers from 1915 to 1917 for  
2 “concealed handgun” or “concealed weapon” found no matches.<sup>49</sup>

3 **C. The 1863 Law**

4 The 1863 concealed weapon ban has some history to it. A search of  
5 newspapers of the period does show a *lot* of murders, gunfights, and knifings. I can  
6 see why the California legislature felt that they had to do *something*. But what? The  
7 legislature debated a ban on concealed carry throughout the 1850s. Even those who  
8 supported such laws often had a narrow notion of who needed to be restricted. During  
9 debates in February of 1856, the state senator who represented Nevada County (a  
10 derringer-shaped county in California’s foothills) indicated that he was in support of a  
11 bill to ban concealed carry if it were for the purpose of disarming “Greasers”<sup>50</sup> (a slang  
12 term used throughout the nineteenth and early twentieth century for Mexicans).<sup>51</sup>

13 **D. California State Constitutional Conventions**

14 **i. The 1849 Convention**

15 California’s two state constitutional conventions are also interesting. When  
16 delegates met at the 1849 Convention, they debated what individual rights should be  
17 listed in the state constitution’s bill of rights. Delegate Ord proposed, “Every person  
18 has a right to bear arms for the defence of himself and the State.” Delegate  
19  
20

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21 <sup>49</sup> *California Digital Newspaper Collection*, [http://cdnc.ucr.edu/cgi-](http://cdnc.ucr.edu/cgi-bin/cdnc?a=q&hs=1&r=1&results=1&txq=concealed+handgun&txf=txIN&ssnip=txt&o=20&dafdq=&dafmq=&dafyq=1915&datdq=&datmq=&datyq=1917&puq=&e=--1915---1917--en--20--1--txt-txIN-concealed+weapon-----)  
22 [bin/cdnc?a=q&hs=1&r=1&results=1&txq=%22concealed+weapon%22&txf=txIN&](http://cdnc.ucr.edu/cgi-bin/cdnc?a=q&hs=1&r=1&results=1&txq=%22concealed+weapon%22&txf=txIN&ssnip=txt&o=20&dafdq=&dafmq=&dafyq=1915&datdq=&datmq=&datyq=1917&puq=&e=--1915---1917--en--20--1--txt-txIN-concealed+handgun-----)  
23 [ssnip=txt&o=20&dafdq=&dafmq=&dafyq=1915&datdq=&datmq=&datyq=1917&puq=&e=--1915---1917--en--20--1--txt-txIN-concealed+handgun-----](http://cdnc.ucr.edu/cgi-bin/cdnc?a=q&hs=1&r=1&results=1&txq=%22concealed+weapon%22&txf=txIN&ssnip=txt&o=20&dafdq=&dafmq=&dafyq=1915&datdq=&datmq=&datyq=1917&puq=&e=--1915---1917--en--20--1--txt-txIN-concealed+handgun-----), last accessed  
24 April 7, 2015.

25  
26 <sup>50</sup> *Letter From Sacramento*, DAILY ALTA (SAN FRANCISCO) CALIFORNIA,  
27 February 19, 1856, at 2.

28 <sup>51</sup> Win Blevins, *DICTIONARY OF THE AMERICAN WEST* 166 (2001).

1 McCarver wanted to add, “provided that they are not concealed arms.”<sup>52</sup> This is not  
2 surprising; in the period before the Civil War, many states passed laws either  
3 prohibiting or restricting the *concealed* carrying of deadly weapons. State  
4 constitutional conventions often added such restrictions to existing arms guarantees  
5 to make sure that the legislature could ban what was increasingly regarded as a  
6 cowardly way of fighting—the use of “secret arms.”<sup>53</sup>

7 Delegate McCarver, however, also believed that it would be best if there were  
8 *no* provision preventing “the Legislature from regulating matters of this kind.” He  
9 thought guaranteeing a right to bear arms was not “a proper subject for the  
10 Constitution.” Other delegates agreed with McCarver that there should be no arms  
11 provision in the state bill of rights—but not because the state should have the power  
12 to regulate the carrying of weapons. Delegate Sherwood argued that denying an  
13 individual the right to bear arms “would be null and void, inasmuch as it would be in  
14 opposition to the Constitution of the United States,” and then quoted the Second  
15 Amendment. Sherwood thought an arms guarantee was unnecessary because the  
16 Second Amendment already protected such a right.<sup>54</sup>

17 (This may seem a pretty astonishing claim, because only with the *McDonald*  
18 *v. Chicago* (2010) decision did the U.S. Supreme Court hold that the Second  
19 Amendment restricted the power of the states to regulate the keeping and bearing of  
20 arms. And then only through incorporation of the Second Amendment via the 14<sup>th</sup>  
21 Amendment. The 14<sup>th</sup> Amendment was ratified in 1868, almost twenty years after  
22 the California constitutional delegates debated the applicability of the Second  
23 Amendment to state law. However, the notion that states were bound by the Second

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24 <sup>52</sup> J. Ross Browne, REPORT OF THE DEBATES IN THE CONVENTION OF  
25 CALIFORNIA, ON THE FORMATION OF THE STATE CONSTITUTION... 47 (1850).

26 <sup>53</sup> Clayton E. Cramer, CONCEALED WEAPON LAWS OF THE EARLY REPUBLIC:  
27 DUELING, SOUTHERN VIOLENCE, AND MORAL REFORM 52-62 (1999).

28 <sup>54</sup> Browne, Report of the Debates in the Convention of California, on the  
Formation of the State CONSTITUTION... 47 (1850).

1 Amendment directly was a minority viewpoint endorsed by several state supreme  
2 courts in the antebellum period, so this is not as anachronistic as it first sounds.<sup>55</sup>)  
3 Delegate Botts argued against adding the arms guarantee to the state constitution’s  
4 bill of rights because he feared that it might not be a strong enough protection; such  
5 a guarantee belonged in the section that specified the powers of the legislature.  
6 Even Delegate Sherwood was persuaded by this argument, admitting that the arms  
7 provision “directly touches the rights of every citizen.”<sup>56</sup> When the convention  
8 voted on both Ord’s proposal for a right to bear arms, and McCarver’s amendment  
9 that the right should not apply to concealed weapons, both proposals died—and with  
10 it, any possibility of adding a right to keep and bear arms to the California  
11 Constitution’s bill of rights.

12       You cannot draw too strong a message from this series of back-and-forth  
13 discussions, but it appears that some delegates argued that there was no need for an  
14 individual right to keep and bear arms in California’s Constitution, because the  
15 Second Amendment already protected such a right; other delegates argued that the  
16 right needed to be located elsewhere than in the bill of rights to be better protected.<sup>57</sup>  
17 The only delegate who clearly spoke against a right to bear arms was McCarver.  
18 Today, he is most remembered for another proposal he made a few minutes later:

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20       <sup>55</sup> Nunn. v. State, 1 Ga. 243, 250 (1846) (striking down a ban on open carrying of  
21 horseman’s pistols); State v. Chandler, 5 La. Ann. Rep. 489, 490 (1850) (upholding  
22 a ban on concealed carry while observing that the “right to carry arms” is a “right  
23 guaranteed by the Constitution of the United States.); State v. Smith, 11 La. Ann.  
24 Rep. 638 (1856) (upholding a ban on concealed carry because that law “does not  
25 contravene the second article of the amendments of the Constitution of the United  
26 States. The arms there spoken of are such as are.. at least carried openly.”); State v.  
27 Jumel, 13 La. Ann. Rep. 399, 400 (1858) (rejecting a Second Amendment challenge  
28 to a concealed weapon law because the laws prohibited “only a particular mode of  
bearing arms....”); Cockrum v. State, 24 Tex. 394, 396, 401 (1859) (appears to have  
accepted defendant’s argument that the Second Amendment “is applicable to state  
legislation.”)

<sup>56</sup> Browne, REPORT OF THE DEBATES, 47.

<sup>57</sup> *Id.*

1 that blacks would be forever banned from living in California.<sup>58</sup> (Such provisions  
2 were added to many other state constitutions of the period; McCarver even played a  
3 part in Oregon adopting such a ban; he got around.<sup>59</sup>) In spite of considerable  
4 support from other delegates, this proposal did not pass.

5 **ii. The 1878 Convention**

6 California held another constitutional convention in 1878. The 1849  
7 Constitution seemed increasingly inadequate because of questions about water rights  
8 and the “Chinese problem.”<sup>60</sup> The 1878 convention seems not to have even  
9 discussed the question of a right to keep and bear arms—except for one startling  
10 provision. The convention was divided between a conservative, generally wealthy  
11 group, and what became known as “the Workingmen,” who represented a populist  
12 collection of white laborers, intent on driving Asian immigrants from California.  
13 They had several proposals that are shocking in their racism today (but nevertheless  
14 were made part of the 1879 California Constitution). Of most relevance to gun  
15 control was the Workingmen’s demand that aliens who could not become citizens  
16 would be prohibited from bearing arms.<sup>61</sup> Delegate O’Donnell introduced this  
17 request as a constitutional provision: “No alien who cannot become a citizen of the  
18 United States shall be allowed to bear arms.” What sort of aliens could not become  
19 citizens of the United States? Until 1952, no “Oriental” (as persons of East Asian  
20 ancestry were then described) could become a naturalized citizen.<sup>62</sup> If you were  
21 born in the United States, you were a natural-born citizen, but an immigrant from the  
22

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23 <sup>58</sup> *Id.*, 49-50.

24 <sup>59</sup> David Alan Johnson, *FOUNDING THE FAR WEST: CALIFORNIA, OREGON, AND NEVADA, 1840-1890*, 129 (1992); Oregon, *JOURNAL OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF OREGON: HELD AT SALEM* 125 (1882).

25 <sup>60</sup> Samuel Charles Wiel, *2 WATER RIGHTS IN THE WESTERN STATES: THE LAW OF PRIOR APPROPRIATION* .. 1166 (3d ed. 1911) .

26 <sup>61</sup> Theodore H. Hittell, *4 HISTORY OF CALIFORNIA* 615-17 (1897).

27 <sup>62</sup> Davis McEntire, *RESIDENCE AND RACE: FINAL AND COMPREHENSIVE REPORT TO THE COMMISSION ON RACE AND HOUSING* 269 (1960).

1 Far East would always be an alien. O'Donnell's proposed was "Referred to  
2 Committee on Chinese" where it seems to have silently died.<sup>63</sup>

#### 3 **IV. My Current Research Project**

##### 4 **A. Defining Mass Murder**

5 Since 2019, I have been researching the history of mass murder in the United  
6 States. The definition of mass murder does not have a universal definition. The  
7 FBI's definition of mass murder is four or more dead (including the killer) in one  
8 event, in one location.<sup>64</sup> Other agencies, such as the U.S. Secret Service use the term  
9 "mass attacks" in which "three or more people are harmed."<sup>65</sup>

10 For purposes of my research, I have adapted the Secret Service's definition.  
11 For purposes of this research, I slightly extended the FBI definition to include at  
12 least two murder victims committed in multiple locations within 24 hours and use  
13 the Secret Service's "three or more people harmed." The suicide or lawful killing of  
14 the mass murderer or murderers is not included in the total dead.

15 I have excluded multiday mass murders committed in riots, such as the New  
16 York City Draft Riots of 1863, and many of the race riots of the 20th and 21<sup>st</sup>  
17 centuries because they were not in one location. Determining when these murders  
18 took place also precludes easy classification. I also have excluded crimes such as the  
19 Colorado cannibalism murders in 1874, because it is unclear over what period the  
20 victims were murdered.

21 There are deaths that might qualify as mass murder, but which have  
22 circumstances that might also qualify as lawful self-defense and are thus not  
23

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24 <sup>63</sup> E.B. Willis and P.K. Stockton, 1 DEBATES AND PROCEEDINGS OF THE  
25 CONSTITUTIONAL CONVENTION OF THE STATE OF CALIFORNIA... 285 (1880).

26 <sup>64</sup> FBI, *Serial Murder: Multidisciplinary Perspectives for Investigators* 8 (2008),  
27 distinguishing mass murder from serial murderers. "Generally, mass murder was  
28 described as a number of murders (four or more) occurring during the same incident,  
with no distinctive time period between the murders."

<sup>65</sup> U.S. Secret Service, *Mass Attacks in Public Spaces – 2019*, 6 (August, 2020).

1 included.<sup>66</sup> There are mass murders which appear to be gang-related; I have  
2 excluded many of those because determining if they were defensive in nature or not  
3 requires confidence in the integrity of the participants, who often have reason to lie.  
4 Obviously, mass murder does not include acts of war. Mass murders committed by  
5 governments as official policy are outside the legal definition of murder. Also  
6 excluded are governmentally supported acts of mass murder committed outside the  
7 rules of land warfare. The bombing of the Soo Locks on the Great Lakes shortly  
8 after U.S. entry into World War I, which would otherwise meet the criteria of mass  
9 murder, smells suspiciously like German sabotage and I therefore excluded it.<sup>67</sup> This  
10 also excludes one of the earliest American mass murders: ten murdered by Lenape  
11 Indians at a school in 1764 Greencastle, Pennsylvania,<sup>68</sup> as well as the many  
12 thousands (at least) killed in various Indian wars (such as the hundreds killed during  
13 the Dakota War of 1862).

14 I have excluded *most* mass murders of Indians by Indians because most were  
15 outside the civil society of America, and the records of such crimes are thus  
16 necessarily incomplete. The Criminal Justice Research Center's data on Colonial  
17 and Revolutionary New England murders contains examples that meet this  
18 definition.<sup>69</sup> I *have* included incidents where a mass murder (by white or Indian and  
19 regardless of the victim's race) was clearly *not* a part of warfare, such as those  
20 motivated by robbery or kidnapping with the goal of ransom.

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22 <sup>66</sup> Renewal of Mob Attacks Resulting in 3 Deaths and 13 Injured on Second Day  
23 of Lawlessness Causes Governor to Act, GREAT FALLS [MONT.] DAILY TRIBUNE,  
24 Aug. 7, 1920, at 1.

24 <sup>67</sup> *Attempt Made To Wreck Soo Locks*, EAST OREGONIAN, May 16, 1917, 1.

25 <sup>68</sup> Robert J. Ursano, Carol S. Fullerton, Lars Weisaeth, Beverley Raphael, ed.,  
26 TEXTBOOK OF DISASTER PSYCHIATRY 204 (2<sup>nd</sup> ed. 2017).

26 <sup>69</sup> Criminal Justice Research Center, *Homicide Among Adults in Colonial and*  
27 *Revolutionary New England, 1630-1797*,  
28 <https://cjrc.osu.edu/research/interdisciplinary/hvd/united-states/colonial-revolutionary-new-england>.



1 Murder” or “Mass., murder.”<sup>75</sup> The abbreviation “Mass.” causes similar problems  
2 when searching the Library of Congress’ collection of 1789-1963 newspapers for the  
3 words “mass” and “murder” within five words of each other.<sup>76</sup> An additional  
4 problem is the use of the phrase to describe governmentally sanctioned and indeed  
5 government-operated warfare.<sup>77</sup>

6 Searching the Library of Congress’ *Chronicling America* collection of  
7 newspapers for the words “murders”, “murdered”, “killed”, “slain”, “dead” in  
8 association with numbers found a sea of matches, most of which needed to be read  
9 before discarding. In many cases, similar or identical news stories appeared in  
10 multiple newspapers. If the same facts appeared repeatedly, and there were  
11 hundreds of references to an event, I did not read every newspaper account of that  
12 event.

13 There are several frustrating limitations of the *Chronicling America*  
14 collection:

- 15 1. Copyright restrictions make post-1922 newspaper collections  
16 incomplete.
- 17 2. Many of these mass murders, in addition to appearing in many  
18 different newspapers, sometimes appear in only one or two

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19 <sup>75</sup> Examples: Michigan State Prison, BIENNIAL REPORT OF THE BOARD OF  
20 CONTROL AND OFFICERS OF THE STATE HOUSE OF CORRECTION AND BRANCH PRISON  
21 OF STATE PRISON IN UPPER PENINSULA... 22, 41, 65 (1916);; R.W. Bligh, comp.,  
22 NEW YORK HERALD ALMANAC: FINANCIAL, COMMERCIAL AND POLITICAL REGISTER  
1874 87 (1874).

23 <sup>76</sup> <https://chroniclingamerica.loc.gov/search/pages/results/?state=&dateFilterType=yearRange&date1=1789&date2=1963&language=&ortext=&andtext=&phrasertext=&proxtext=mass+murder&proxdistance=5&rows=20&searchType=advanced>; Examples:  
24 ‘Joe is a Good Boy,’ Declares Ettore’s Parents, [Chicago, Ill.] THE DAY BOOK, Oct.  
25 25, 1912; 14; Queries Pour in on J. Frank Hickey, [Chicago, Ill.] THE DAY BOOK,  
26 Dec. 4, 1912, 28; Written Authority to Walk in Your Own Town, [Chicago, Ill.] THE  
DAY BOOK, Feb. 5, 1912.

27 <sup>77</sup> Jos. Veltman, Do Workers Want War? [letter to the editor] [Chicago, Ill.] THE  
28 DAY BOOK, Jan. 17, 1916, 23.

1 newspapers, far removed from the crime, both geographically and  
2 temporally. One example is a mass murder of three in Tamworth,  
3 N.H. in 1857 which appeared only in an 1858 summary of the  
4 previous year's events, which was published in Pennsylvania.<sup>78</sup>  
5 This made it difficult to gather additional data on the crime.

- 6 3. Nineteenth century accounts often used the word "murders" rather  
7 far afield from its legal meaning, or in reference to general social  
8 problems such as alcohol. This produced so many thousands of  
9 matches that I have often settled for detailed examination of the first  
10 100 front page news stories. Newspapers in the nineteenth century  
11 also published many foreign news accounts and fiction. Limiting  
12 searches to the front pages thus reduced false positives which would  
13 have to be laboriously examined for location and fiction status. (If  
14 it didn't make the front page, it seems unlikely it could be either a  
15 specific crime, or something as shocking as a mass murder.)

16 Defining a mass murder by the number of dead can understate mass murders,  
17 if either police or civilian intervention interrupts the murderer. (There are some  
18 examples in my list of mass murders cut short, although not short enough, by such  
19 actions.) In addition, some of the events gathered here list crimes in which the  
20 immediate coverage includes persons wounded so seriously that the coverage  
21 describes them as "probably fatally."<sup>79</sup> Considering the nature of medical and  
22 surgical care available until my lifetime, it seemed a good assumption that those  
23 described as "probably fatally" wounded can be properly included among the dead.  
24 Along with *Chronicling America*, I have made extensive use of the commercial site  
25 *Newspapers.com* and a few secondary sources.

26 Another valuable source was the list of "Homicide among Adults in Colonial  
27 and Revolutionary New England, 1630-1797," compiled by Randolph Roth and  
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26 <sup>78</sup> Principal Events of General and Local Interest During the Year 1857,  
27 LEWISTON [PENN.] GAZETTE, Jan. 21, 1858, 1.

28 <sup>79</sup> Maniacal Unknown in Attempt to Exterminate Whole Family, BISBEE [ARIZ.]  
DAILY REVIEW, Apr. 6, 1922, 1.

1 Cornelia Hughes Dayton.<sup>80</sup> While this is a list of *all* murders, not just mass murders,  
2 it provided an additional source of incidents.

### 3 **C. Group Activity**

4 The supposed distinction between modern individual mass murder and group  
5 mass murder of earlier centuries does not stand careful examination. Mass murder is  
6 *still* sometimes a group activity. Such happened at Littleton, Colo. on Apr. 20,  
7 1999<sup>81</sup> and the terrorist attacks of September 11, 2001. Other recent group mass  
8 murders include one on Oct. 31, 2019, in Orinda, Cal. A conflict between gangs led  
9 to a shooting in which the murderers shot to death five people and “several others  
10 were injured.”<sup>82</sup> On Dec. 31, 1986, in San Juan, P.R. three Teamsters attempted to  
11 negotiate a better labor contract with their employer by setting a fire that murdered  
12 97 people.<sup>83</sup>

13 As this declaration later shows, individual mass murder is neither particularly  
14 modern not dependent on technological advances.

### 15 **D. Data Limitations**

16 Prof. Roth on p. 5, n. 4: “It is also essential, in the opinion of historians and  
17 historical social scientists involved in the Historical Violence Database, to use  
18 capture-recapture mathematics, when multiple sources are available, to estimate the  
19 number of homicides where gaps or omissions exist in the historical record.” I have  
20 no dispute with this claim. Resampling or re-capturing as Prof. Roth calls it) is a

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21 <sup>80</sup> Randolph Roth and Cornelia Hughes Dayton, comp., *Homicide among Adults*  
22 *in Colonial and Revolutionary New England, 1630-1797*, Oct. 2009,  
23 <https://cjrc.osu.edu/research/interdisciplinary/hvd/united-states/colonial-revolutionary-new-england>, last accessed June 12, 2018.

24 <sup>81</sup> R. Barri Flowers and H. Loraine Flowers, *MURDERS IN THE UNITED STATES: CRIMES, KILLERS AND VICTIMS OF THE TWENTIETH CENTURY* 59 (2001).

25 <sup>82</sup> Annie Sciacca, “It was a bloodbath”: Orinda Halloween shooting investigation  
26 reveals gang connections, *SAN JOSE MERCURY-NEWS*, Nov. 17, 2019.

27 <sup>83</sup> 3 Teamsters Charged in San Juan Hotel Fire, *CHICAGO TRIBUNE*, Feb. 4, 1988,  
28 <https://www.chicagotribune.com/news/ct-xpm-1988-02-04-8803270617-story.html>,  
last accessed November 24, 2018.

1 fundamental part of producing statistically valid results. One limitation of my  
2 research project is that, as my father used to tell me, “Newspapers are the first draft  
3 of history.” They may miss mass murders because of location, loss of newspapers  
4 from the historical record, and sometimes intentional editorial refusal to cover  
5 barbarous behavior (which has been demonstrated to promote copycat mass  
6 murders, even to the choice of manufacturer of the weapon used).<sup>84</sup> I make no  
7 claims that this project produces data of the precision as Prof. Roth’s work, but it  
8 can provide that first sampling from which other researchers can use before  
9 resampling. It does demonstrate some qualitative aspects of mass murder such as  
10 widespread use of non-firearm mass murder weapons, and that certain proximate  
11 causes of mass murder, such as mental illness are not rare.

12       It would be very useful to be able to extract data identifying which were group  
13 mass murders and which were individual. When I started this project, this seemed  
14 an unnecessary detail and so I did not gather it. While I cannot provide that level of  
15 detail on group vs. individual mass murders, I can say with confidence that the mass  
16 murders in my collection are primarily individual, although there are a number that  
17 are group. How can I be so sure? Family mass murders are very common both  
18 historically and in the present. They are usually by either the father or mother. I  
19 cannot immediately recall an intra-family mass murder carried out by more than one  
20 person. Even public mass murders were usually individual, or at least with  
21 explosives, not *clearly* group actions.

22       Before 1960, the intra-family mass murders are 741 of 1796 incidents; 2,784  
23 out of 12,730 dead. (To avoid giving fame to the infamous, which produces  
24 Herostratic mass murders.<sup>85</sup> One example: An 1887 murder (although with only two  
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26       <sup>84</sup> Clayton E. Cramer, Ethical Problems of Mass Murder Coverage in the Mass  
27 Media, 9:1 JOURNAL OF MASS MEDIA ETHICS 26-42 (Winter, 1993-94).

28       <sup>85</sup> Id.

1 victims) was unmistakably a copycat of a recently reported mass murder. A  
2 mechanic read an article about a mass murder committed in part with Rough on  
3 Rats, a poison,<sup>86</sup> to his wife:

4 His wife listened to the account of the... murder and then bade her  
5 husband read it. He went over it a third time and then she took the paper  
6 to the neighbors and had it read twice more. Thursday she sent her  
7 mother for yeast, and took a heavy dose of Rough on Rats and forced a  
8 dose of the poison down the throat of her babe.... The woman died in  
9 great agony and her babe expired soon after.<sup>87</sup>

10 For this reason, my synopses consistently exclude the murderer's name.)  
11 When gathering this data, I only recorded if a particular weapon was used rather than  
12 counting deaths by weapon. In older news accounts, there is almost never a  
13 breakdown of deaths by weapon. In many cases, the state of forensic medicine  
14 would make it impossible to determine if the ax to the head or the subsequent knife  
15 to the throat was the fatal injury. It would make little difference which caused a  
16 victim's death: the murderer's punishment would be the same.

17 A few examples of individual mass murders when firearms technology had  
18 not advanced or was completely irrelevant:

19 **Uniontown, Wash. Feb. 25, 1901:** A woman threw her six children down a 30  
20 foot deep well, "then jumped into the well, and, the belief is, held their heads under  
21 water until all were drowned."<sup>88</sup> "She is violently insane. The woman's husband  
22 died a year ago, and she has been supported by the county and charity of  
23 neighbors."<sup>89</sup> Reporter interview supports evidence of insanity: "[S]he gave him  
24 incoherent reasons for slaying her little ones.... [s]he had read of the Chinese war  
25 and the terrible atrocities committed in the Orient, and had warning that the Chinese

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25 <sup>86</sup> "A Maniac Mother," *St. Paul Daily Globe*, Apr. 24, 1886, 1.

26 <sup>87</sup> "Rough on Rats," *Austin Weekly Statesman*, Feb. 3, 1887, 7.

27 <sup>88</sup> Drowned Her Six Children, ADAMS COUNTY NEWS [Ritzville, Wash.] Feb. 27,  
1901, 4.

28 <sup>89</sup> WASHINGTON STANDARD [Olympia, Wash.], Mar. 1, 1901, 3.

1 were coming today to burn her house and slay her children... Mr. Rustemeyer...  
2 was well acquainted with the family... He said... Mrs. Wurzer was never  
3 considered just right in her mind, and thinks she should have been restrained of her  
4 liberty long ago.” Weapon: drowning.<sup>90</sup>

5 **Belvidere, N.J. (1843)**

6 Two (perhaps three) men murdered John Castner, his wife, one of their  
7 children, “and an old bachelor brother-in-law.” The purpose was believed to be  
8 either robbery or inheritance of the land by one of the murderers. Weapon: blunt  
9 object<sup>91</sup>

10 Nonetheless, firearms mass murders were not rare, even with “primitive”  
11 technology:

12 **Swan River, Minn. Terr. (1860)**

13 Early 1860 or late 1859: A very complex incident. One Chippewa warrior  
14 (“A”) murdered another Chippewa (“B”). A few days later, B’s squaw (“C”) saw A,  
15 and shot him. A’s brother (“D”) shot C. C’s brother (“E”) shot D.

16 Category: public

17 Suicide: no

18 Cause: revenge

19 Weapon: firearm<sup>92</sup>

20 **Coldwater, Mich. (1865)**

21 Jan. 30, 1865: Young man becomes engaged to a woman in Lorain Co., Ohio.  
22 This is a problem, because his wife in Coldwater, Mich., is about to give birth, so he  
23 returns home, where his wife lives with the young man’s parents. In the midst of  
24 giving birth, the young man murdered his wife. When the young man’s father and

25 \_\_\_\_\_  
26 <sup>90</sup> Killed Her Children, COTTONWOOD [Ida.] REPORT, Mar. 1, 1901, 1.

27 <sup>91</sup> “The Warren Tragedy,” *American Republican and Baltimore Daily Clipper*,  
Jan. 23, 1845. 1.

28 <sup>92</sup> Indian revenge, MUSCATINE [Iowa] WEEKLY JOURNAL, Jan. 27, 1860, 1.

1 mother showed up, he shot them to death. (Other accounts identify the town as  
2 Woodstock, and that the murder of his wife and unborn child followed the murder of  
3 his parents.) His behavior after arrest, as newspaper coverage described, “suggests  
4 the charitable conjecture that the man is insane.” He confessed the crime and signed  
5 autographs for the crowd around the jail that described himself as “murderer of his  
6 wife, father and mother.” He invited his friends in Lorain County to visit him in jail  
7 “where they would find him ‘playing checkers with his nose, on the jail windows.’”

8 Category: family

9 Suicide: no

10 Cause: mental illness

11 Weapon: firearm<sup>93</sup>

12 **Sleepy Hollow, N.Y. (1870)**

13 Jan. 1, 1870: Farmer murdered his wife, and two of his neighbors, father and  
14 son, who appear to have visited the murderer’s wife in his absence. The murderer  
15 had a reputation for being too fond of rum.

16 Category: public

17 Suicide: no

18 Cause: jealousy?

19 Weapon: firearm<sup>94</sup>

20 **Glenville, Minn. (1889)**

21 Feb. 15, 1889: Murderer, relative of the victims, shot to death, “Mary  
22 Chemeieck, aged six, and her sister Rose, aged eleven...” Apparently, his niece,  
23  
24

25 \_\_\_\_\_  
26 <sup>93</sup> A Triple Murder, [Plymouth, Ind.] MARSHALL COUNTY REPUBLICAN, Feb. 16,  
1865, 1.

27 <sup>94</sup> A Triple Murder at Sleepy Hollow, WILMINGTON [N.C.] JOURNAL, Jan. 14,  
1870, 1.

1 Rose, had spurned his advances. He then murdered their mother with a shotgun and  
2 committed suicide. Weapon: pistol, shotgun<sup>95</sup>

3 A mass murder that is *not* part of the database shows how “primitive” firearms  
4 technology is not a barrier to school mass murder. A former teacher showed up at a  
5 Bremen, Germany, Catholic school “armed with six loaded revolvers.” He killed  
6 one teacher, two children, “three children were gravely injured and three other  
7 children were slightly wounded.” The article described him as “demented.”<sup>96</sup>  
8 Depending on whether they were they were 5-shot, 6-shot, or 9-shot revolvers (all  
9 still common today) he could have fired 30, 36, or 54 shots without reloading.

10 Of course, reloading a revolver with speedloaders can be done by a skilled  
11 shooter in a second or two at most. Jerry Miculek has demonstrated his ability to  
12 accurately fire 16 rounds in four seconds from an eight-round revolver using a  
13 speedloader.<sup>97</sup> A mass murderer carrying four speedloaders could accurately fire  
14 forty rounds in eight seconds. This is slower than a mass murderer with a semiauto  
15 rifle and a 30-round magazine, but not by much.

16 Through 1960, there were 797 non-firearm mass murders: 3,781 dead: an  
17 average of 4.74 dead per incident; 840 exclusively firearms mass murders, 3,653  
18 dead: an average of 4.35 dead per incident.

19 Firearms become more common weapons by the 1920s. Axes and hatchets  
20 declined as wood stoves became less common. While I have not categorized the  
21 poison mass murders as precisely as I might do if I were starting from scratch,  
22 “illuminating gas” and “Rough on Rats” (both commonly used to wipe out your  
23 spouse and children) declined as automobile exhaust poisoning rose.

24  
25 <sup>95</sup> He was a Rejected Lover, ST. PAUL GLOBE, Feb. 17, 1889, 1.

26 <sup>96</sup> Maniac Shot Many People, BARRE [Vt.] DAILY TIMES, Jun. 20, 1913, 1.

27 <sup>97</sup> “Revolver Speed Reload! 16 rounds in four seconds on slo mo! S&W 929  
28 Jerry Miculek,” <https://www.youtube.com/watch?v=0FbUMqoyjDw&t=7s>, last  
accessed January 17, 2023.

1 This should be no surprise; mass murderers use what is available. This May  
2 20, 1931, Mattoon, Ill. incident catches this improvisational nature well. A former  
3 employee of her late husband attempted to burn to death the woman and her two  
4 daughters with whom he had recently moved to Illinois. They escaped the burning  
5 house. He then shot to death the mother, attempted to strangle the daughters, then  
6 shot them and beat them to death with an automobile starter crank.<sup>98</sup> Similarly, May  
7 30, 1840: The husband, murdered his mother-in-law and her five children. Cause:  
8 robbery. Weapon: strangulation; stone; axe, rifle; knife. He confessed after the first  
9 hanging failed.<sup>99</sup>

10 Even today's gun mass murderers are not as narrowly focused as the popular  
11 imagination sees them. May 24, 2014, Isla Vista, Cal.: College student, upset about  
12 his sex life (or rather its absence) stabbed to death his three roommates, shot three  
13 women at a sorority (two of whom died), shot another student, injured two bicyclists  
14 by ramming them with his car, and shot and wounded four pedestrians.<sup>100</sup>

15 For the following table, some of these weapon types require explanation.

16 UNKNOWN means the weapon type was not identified in the article.

17 AIRCRAFT is for murders committed with an airplane (not all of which took  
18 place on Sep. 11, 2001). (Bombing of airplanes is in the EXPLOSIVE weapon  
19 type.)

20 PERSONAL: hands (other than strangle), feet.

21 TRAIN involves intentional derailment of trains to cause loss of life. The  
22 motivation for most of these crimes is uncertain. One was insurance fraud;

24 <sup>98</sup> Woman Shot. Tots Choked, BROWNSVILLE HERALD, May 20, 1931, 1.

25 <sup>99</sup> *Trial, Confession, and Execution of Robert M'Conaghy for the Murder of Mrs. Brown and her Five Children* 6-7, 9-10 (1841).

26 <sup>100</sup> Shelby Lin Erdman and Greg Botelho, Timeline: A killer's rampage through a  
27 California college town, CNN, May 27, 2014,  
<https://www.cnn.com/2014/05/24/us/california-rampage-timeline/>, last accessed  
28 November 27, 2018.

1 authorities alleged “that the men entered into the plot to get rid of their wives and at  
2 the same time to collect damages from the railroad company.” One of the murderers  
3 collected \$500 from the railroad for injuries to his wife.<sup>101</sup> Another, on Dec. 27,  
4 1934: Police charged three men with the intentional derailment of a train, in the  
5 hopes that one of the train crew would lose his job, so that one of the three would get  
6 that job. (This was the depths of the Depression.) The crash killed three employees  
7 and injured 16 passengers.<sup>102</sup>

8 Incident count by weapon type for mass murders before 1960 where only one  
9 weapon type was used:

10	UNKNOWN	862
11	AX	646
12	HATCHET	135
13	KNIFE	588
14	OTHERSHARP	215
15	BLUNT	868
16	EXPLOSIVE	299
17	POISON	286
18	STRANGLE	109
19	DROWN	139
20	ARSON	708
21	HANG	284
22	OTHER	157
23	PERSONAL	21
24	FIREARM_UNKNOWN	2571
25	SHOTGUN	504
26	RIFLE	570
27	PISTOL	933
28	MACHINE_GUN	61
	AIRCRAFT	
	TRAIN	76

101 Plot to Kill Their Wives, [Maysville, Ky.] EVENING BULLETIN, Mar. 26, 1896,  
1.

102 Trio Held In Wreck Accused Of Murder, [Washington, D.C.] EVENING STAR,  
Mar. 10, 1935, 1.

1 When grouped by incidents where only non-firearms were used, 3,809 died.  
2 For firearms only mass murders, 2,068 died.

3 **V. Killing People Without Modern Firearms Technology**

4 How do you kill lots of people without modern firearms technology?

5 **A. Explosives**

6 One popular method was explosives.

7 **Sells, Ark. (1900)**

8 Oct. 15, 1900: “[F]ather, mother, and four young children blown to atoms” by  
9 dynamite explosion. “It is believed that a dispute over a homestead claim prompted  
10 the outrage.”

11 Category: family non-resident

12 Suicide: no

13 Cause: greed

14 Weapon: explosives<sup>103</sup>

15 **Cripple Creek, Colo. (1904)**

16 Jun. 5, 1904: Someone set off a bomb under a train station platform where  
17 non-union men were waiting for a train during a strike. Twelve died “and a score or  
18 more injured...” Subsequently, “Forty shots were fired in a crowd in the street. Two  
19 men were killed and at least six persons wounded.” One of the dead “by blow from  
20 revolver.” Then the National Guard troops showed up and attempted to restore  
21 order.

22 Category: public

23 Suicide: no

24 Cause: labor

25 Weapon: explosives, firearm, blunt<sup>104</sup>

26 \_\_\_\_\_  
27 <sup>103</sup> Whole Family Murdered, [St. Genevieve, Mo.] FAIR PLAY, Oct. 20. 1900, 1.

28 <sup>104</sup> Terrorism and Death Dominate Colorado, SAINT PAUL GLOBE, Jun. 7, 1904, 1.

1 **Mullins, W.Va. (1909)**

2 5/16/1909: The Black Hand used dynamite to blow up an Italian boarding  
3 house. One of the victims broke faith with the Black Hand. The explosion killed  
4 four and injured three.

5 Category: residential

6 Suicide: no

7 Cause: gang

8 Weapon: explosives<sup>105</sup>

9 **Mudlow, W.Va. (1912)**

10 7/26/1912: Striking miners dynamited a machine gun operated by agents of  
11 the Baldwin detective agency, killing three miners and seven detectives.

12 Category: public

13 Suicide: no

14 Cause: labor

15 Weapon: explosives<sup>106</sup>

16 **Superior, Penn. (1914)**

17 11/15/1914: Someone blew up the Kanaza general store, which was also the  
18 Kanaza residence, with two separate dynamite bombs, killing Kanaza's three  
19 children and two other men. Five others suffered injuries. Mr. Kanaza believed the  
20 motive was revenge for a lawsuit.

21 Category: family

22 Suicide: no

23 Cause: revenge

24 Weapon: explosives<sup>107</sup>

25 \_\_\_\_\_  
26 <sup>105</sup> Black Hand Kills Four By Dynamite, BLUEFIELD [W.Va.] EVENING LEADER,  
May 17, 1909, 1.

27 <sup>106</sup> Seven Detectives and Three Miners Dead, SEATTLE STAR, Jul. 26, 1912, 1.

28 <sup>107</sup> Dynamite Kills Five In Spite Act, NEW-YORK TRIBUNE, Nov. 16, 1914, 1.

1 **San Francisco, Cal. (1916)**

2 7/22/1916: Someone set off a dynamite bomb during the “Preparedness Day  
3 Parade,” in preparation for World War I. While the identity of the murderer or  
4 murderers is uncertain (California Governor Culbert Olson many years later  
5 pardoned those originally convicted as evidence of perjury at the trial accumulated),  
6 circumstances suggests that it was the work of anarchists, hostile to U.S.  
7 involvement in the war.

8 Category: public

9 Suicide: no

10 Cause: terrorism

11 Weapon: dynamite<sup>108</sup>

12 **New York, N.Y. (1920)**

13 09/16/1920: Anarchists set off a bomb in Wall Street, killing 31 and injuring  
14 125 others.

15 Category: public

16 Suicide: No

17 Cause: terrorism

18 Weapon: TNT<sup>109</sup>

19 **Germantown, Md. (1920)**

20 11/18/1920: Two neighbors had a longstanding feud. On Election Day, one  
21 shot the other in the neck. The farmer shot in the neck took revenge with 50 pounds  
22 of dynamite, killing his neighbor, the housekeeper and her two children.

23 Category: family non-resident

24  
25 <sup>108</sup> Dynamite Trial Opens Today in ‘Frisco; 10 Were Killed by Bomb, BEMIDJI  
26 [Minn.] DAILY PIONEER, Jan. 3, 1917, 1; Preparedness Day Bombing,  
27 [https://en.wikipedia.org/wiki/Preparedness\\_Day\\_Bombing#Later\\_investigations](https://en.wikipedia.org/wiki/Preparedness_Day_Bombing#Later_investigations).

28 <sup>109</sup> Bomb Batters Wall Street; 31 Slain, 125 Hurt, THE SUN AND THE NEW YORK  
HERALD, Sep. 17, 1920, 1.

1 Suicide: no

2 Cause: revenge

3 Weapon: explosives<sup>110</sup>

4 **Pittsburgh, Penn. (1925)**

5 05/Jun. 1925: Two bombs destroyed three buildings, killing eight people  
6 immediately, and fatally injuring two others. One of the buildings housed a grocer  
7 who had been the victim of extortion threats by a Black Hand society.

8 Category: residential

9 Suicide: no

10 Cause: extortion

11 Weapon: explosive<sup>111</sup>

12 **Bath, Michigan (1927)**

13 May 18, 1927: Treasurer of the local school board was angered by his  
14 property tax increase to pay for a new school building that he had opposed. He  
15 placed a dynamite bomb in the basement of the school, by which method he  
16 murdered 37 children and six adults as well as seriously injuring 44 others. Only a  
17 wiring mistake prevented other charges from taking down the rest of the building  
18 which would have endangered 150 more students. The murderer had already beaten  
19 his wife to death at their home before blowing up their house. He blew himself up in  
20 his car in front of the school 30 minutes after the school explosion.

21 Category: public

22 Suicide: yes

23 Cause: revenge

24

25

26 <sup>110</sup> Bomb Wrecks Farmers Home Killing Three, [Salem, Ore.] CAPITAL JOURNAL,  
Nov. 19, 1920, 1.

27 <sup>111</sup> Eight Are Killed In Blasted Homes, [Washington, D.C.] EVENING STAR, May  
28 06, 1925, 1.

1 Weapon: explosive, blunt object<sup>112</sup>

2 **New York, N.Y. (1927)**

3 Oct. 8, 1927: Someone set off a dynamite bomb demolishing a four-story  
4 apartment building, killing five and injuring eleven. Why did police assume a  
5 dynamite bomb? “Finding of 20-Pound Unexploded Bomb Leads Police to Suspect  
6 Infernal Machine.”

7 Category: public

8 Suicide: no

9 Cause: unknown

10 Weapon: explosive<sup>113</sup>

11 **Newton, Mass. (1928)**

12 01/31/1928: Someone used dynamite to destroy a building containing  
13 “extensive liquor making apparatus in the basement.” Six people died.

14 Category: private

15 Suicide: no

16 Cause: gang?

17 Weapon: explosive<sup>114</sup>

18 **Seat Pleasant, Md. (1930)**

19 01/01/1930: A belated and misdelivered Christmas gift was dynamite and  
20 exploded as the family unwrapped it. The explosion killed an expectant mother and  
21 two siblings, her mother, and injured two other siblings. The family was new to the  
22 community with no known enemies.

23

24 <sup>112</sup> Fate Saves Scores in Blast When Maniac’s Plot Kills 43, [Washington, D.C.]  
25 EVENING STAR, May 19, 1927, 1.

26 <sup>113</sup> Four Killed In Bomb Explosion In Tenement District Of New York, [Douglas,  
27 Ariz.] DOUGLAS DAILY DISPATCH, Oct. 09, 1927, 1; Five Killed, 11 Hurt As  
28 Explosion Razes 35th St. Tenement, NEW YORK TIMES, Oct. 9, 1927, 1.

<sup>114</sup> Mystery Explosion Is Fatal To Six -Bodies Taken From Debris Of Two-Story,  
BROWNSVILLE HERALD, Jan. 31, 1928, 1.

1 Category: family non-resident

2 Suicide: no

3 Cause: unknown

4 Weapon: explosives<sup>115</sup>

5 **Chesterton, Ind. (1933)**

6 10/10/1933: A bomb explosion in the cargo compartment aboard a United  
7 Airlines flight ripped the plane apart, killing seven people. Motive remained  
8 uncertain.

9 Category: public

10 Suicide: no

11 Cause: unknown

12 Weapon: explosive<sup>116</sup>

13 **Denver, Colo. (1955)**

14 11/1/1955: The 23-year-old son of passenger Daisie E. King eventually  
15 confessed that he placed a 25-stick dynamite bomb in her luggage, blowing up her  
16 airliner, killing 44 people. The murderer had taken out life insurance policies on his  
17 mother and was expecting to receive a “substantial inheritance” upon her death.

18 Category: public

19 Suicide: no

20 Cause: greed

21 Weapon: explosives<sup>117</sup>

22

23 \_\_\_\_\_  
24 <sup>115</sup> Gift Package Bomb Kills Woman; 5 Hurt, [Washington, D.C.] EVENING STAR,  
25 Jan. 01, 1930, 1; Bomb Survivors Tell Of Explosion, [Washington, D.C.] EVENING  
26 STAR, Jan. 12, 1930, 1.

27 <sup>116</sup> Ill-Fated Plane Wrecked By Bomb US Prober Says, INDIANAPOLIS TIMES, Oct.  
28 14, 1933, 1.

29 <sup>117</sup> Flowers And Flowers, MURDERS IN THE UNITED STATES, 30-1; FBI, Jack  
30 Gilbert Graham, <https://www.fbi.gov/history/famous-cases/jack-gilbert-graham>, last  
31 accessed October 5, 2022.

32

1 Since 1960, this technology, despite attempts to regulates explosives, remain a big  
2 dead per incident killer. Using fertilizer, a murderer on Apr. 20, 1995, set off a truck  
3 bomb in front of the Oklahoma City Federal Building killing 168 people and  
4 injuring hundreds more.

5 Category: public

6 Suicide: no

7 Cause: terrorism

8 Weapon: explosives<sup>118</sup>

9 **B. Arson**

10 Arson is also a common and very low technology method to cause lots of  
11 suffering.

12 **New York, N.Y. (1903)**

13 11/1/1903: Police and coroner believed that a tenement building fire that  
14 killed 26 people was “of incendiary origin.”

15 Category: residential

16 Suicide: no

17 Cause: unknown

18 Weapon: arson<sup>119</sup>

19 **Boston, Mass. (1913)**

20 1Feb. 3/1913: A lodging house refused a man a room “for want of 15 cents.”  
21 He lit the structure on fire, killing 27 lodgers in a dangerously renovated structure.

22 Category: residential

23 Suicide: no

24 Cause: revenge

25  
26  
27 <sup>118</sup> Flowers and Flowers, MURDERS IN THE UNITED STATES, 56-7.

28 <sup>119</sup> Tenement House Fire, [Maysville, Ky.] EVENING BULLETIN, Nov. 2, 1903, 4.

1 Weapon: arson<sup>120</sup>

2 **San Francisco, Cal. (1944)**

3 03/27/1944: Over a period of four hours, five San Francisco skid row hotels  
4 “burst into flames” following a previous weekend of 11 fires in Oakland hotels. The  
5 New Amsterdam Hotel fire killed 22 and injured 27. “Authorities noted an odor of  
6 kerosene or gasoline.” One tenant, 33, showed injuries from the fire and was held in  
7 the “hospital psychopathic ward.”

8 Category: public

9 Suicide: no

10 Cause: mental illness

11 Weapon: arson<sup>121</sup>

12 **Tulsa, Okla. (1921)**

13 05/01/1921: The police arrested a young black man for what later appears to  
14 have been an accidental touching of a white female elevator operator. Rumors  
15 spread that police charged him with sexual assault. A lynch mob arrived at the  
16 county jail. The sheriff and deputies prevented seizure of the young man. A group  
17 of armed black men offered to help the sheriff defend the jail. This display of arms  
18 by black men inflamed white public sentiment leading to the destruction of  
19 Greenwood, the black section of Tulsa. More than one thousand homes were burned  
20 and *at least* 36 dead. Newspapers and public officials removed news accounts and  
21 official records about the riot from files. The Tulsa Race Riot Commission in 2001  
22 “concluded that between 100 and 300 people were killed and more than 8,000  
23 people made homeless over those 18 hours in 1921,” with many bodies buried in  
24 unmarked mass graves.

25 \_\_\_\_\_  
26 <sup>120</sup> Burns Lodging House When Refused Room; 27 Homeless Men Died, [New  
27 York, N.Y.] EVENING WORLD, Dec. 3, 1913, 1.

28 <sup>121</sup> 22 Killed In Hotel Fire In San Francisco, [Santa Cruz, Cal.] SANTA CRUZ  
SENTINEL, Mar. 29, 1944, 1.

1 Category: public  
2 Suicide: no  
3 Cause: racism  
4 Weapon: firearms, arson, unknown?<sup>122</sup>

5 **Chicago, Ill. (1958)**

6 Dec. 1, 1958: Our Lady of the Angels school burned, killing 95.<sup>123</sup> Several  
7 years later, a 13-year-old confessed while on a lie detector that he had started the  
8 fire: “because he hated school, rebelled at the authority of teachers, liked to hear the  
9 sound of fire sirens and to watch fire engines race along the street.”<sup>124</sup>

10 After 1960, of course, there have been several arson mass murders with equal or  
11 larger death counts, and this remains a common method of mass murder in other  
12 nations. In Australia, an arsonist burned the Childers, Queensland’s Palace  
13 Backpackers Hostel in 2000, killing 15.<sup>125</sup> The 2011 Quakers Hill Nursing Home  
14 fire killed eleven, set by a nurse after police questioned him about drug abuse.<sup>126</sup>  
15 Japan had several arson mass murders in late 2021, killing 24, 17, and 33 in separate  
16 incidents.<sup>127</sup> These required no advanced firearms technology or even firearms. The

17  
18  
19  
20 <sup>122</sup> Tulsa Race Riots, [https://www.history.com/topics/roaring-twenties/tulsa-race-](https://www.history.com/topics/roaring-twenties/tulsa-race-massacre)  
21 [massacre](https://www.history.com/topics/roaring-twenties/tulsa-race-massacre), last accessed July 5, 2021.

22 <sup>123</sup> Our Lady of the Angels School fire,  
23 [https://en.wikipedia.org/wiki/Our\\_Lady\\_of\\_the\\_Angels\\_School\\_fire](https://en.wikipedia.org/wiki/Our_Lady_of_the_Angels_School_fire)

24 <sup>124</sup> Boy Admits Fire Fatal To 95, MIAMI NEWS, January 16, 1962, 1.

25 <sup>125</sup> *A Decade On, Childers Remembers Hostel Fire Tragedy*, BRISBANE  
26 [Australia] TIMES, Jun. 23, 2010.

27 <sup>126</sup> Candace Sutton, *Man Who Murdered 11 People in Nursing Home Fire*  
28 *'Frothed At The Mouth' From Drugs And 'Put Nails In Tyres And Poured Paint'*  
29 *Over Boss's Car, Inquest Hears*, [U.K.] DAILY MAIL, Sep. 8, 2014.

30 <sup>127</sup> Makiko Inoue, Motoko Rich and Hikari Hida, 24 Dead in Suspected Arson at  
31 Office Building in Japan, N.Y. TIMES, Dec. 16, 2021,  
32 <https://www.nytimes.com/2021/12/16/world/asia/japan-fire-osaka.html>, last  
33 accessed November 21, 2022.

1 previously mentioned San Juan, P.R. arson mass murder killed 97.<sup>128</sup> The March  
2 25, 1990, Happyland Social Club fire killed 87 people, leaving three survivors.  
3 Angry at his girlfriend, the murderer used \$1 of gasoline and a match to set fire to  
4 her place of employment.<sup>129</sup>

5 **New Orleans, La. (1973)**

6 Jun. 24/1973: The murderer took revenge for being expelled from the  
7 UpStairs Lounge, a gay bar. He walked down the street and bought a bottle of  
8 cigarette lighter fluid, killing 33 people.<sup>130</sup>

9 **Chicago, Ill. (1976)**

10 01/30/1976: An employee of Wincrest Nursing Home with a mental illness  
11 problem (pyromania) started a fire in a clothing wardrobe, which killed 22 residents.  
12 The employee was charged with arson.<sup>131</sup>

13 **C. Brutal Misuse of Tools**

14 **Villisca, Ia. (1912)**

15 Sep. 9, 1912: It appears that a business competitor and member of the Iowa  
16 State Senate murdered Joseph Moore, his wife Sarah, their four children and two  
17 visiting children “with an ax.” An “itinerant minister” was charged. The Iowa  
18 Attorney-General “sought to commit” the minister “to an insane asylum, a step that  
19 would bar the prosecution of any other person suspected of the crime.”  
20

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21 <sup>128</sup> 3 Teamsters Charged in San Juan Hotel Fire, CHICAGO TRIBUNE, Feb. 4, 1988,  
22 <https://www.chicagotribune.com/news/ct-xpm-1988-02-04-8803270617-story.html>,  
last accessed November 24, 2018.

23 <sup>129</sup> Ralph Blumenthal, Fire in the Bronx; 87 Die in Blaze at Illegal Club; Police  
24 Arrest Ejected Patron; Worst New York Fire Since 1911, NEW YORK TIMES, Mar.  
26, 1990.

25 <sup>130</sup> Elisabeth Dias with Jim Down, The Horror Upstairs, TIME, Jul. 1, 2013.

26 <sup>131</sup> National Fire Protection Association, *Preliminary Report NFPA Fire Analysis*  
27 *Department Wincrest Nursing Home*, 1, 4,  
<https://oac.cdlib.org/view?docId=hb9v19p0sd&doc.view=frames&chunk.id=div00008&toc.id=0>,  
28 last accessed November 27, 2022; Woman Indicted in Chicago Blaze,  
NEW YORK TIMES, Feb. 4, 1976.

1 Relatives of the victims claimed that the Attorney-General blamed the wrong  
2 person; in response, the Iowa legislature passed a law prohibiting public discussion  
3 of the crime. This led to an “injunction against J.N. Wilkerson, a detective, whose  
4 four years’ investigation of the murders cast suspicion on a prominent state senator.”  
5 The public meeting by Villisca residents took place in Omaha, Neb., instead.

6 Category: greed

7 Suicide: no.

8 Cause: greed

9 Weapon: ax<sup>132</sup>

10 **D. Panic**

11 **Calumet, Mich. (1913)**

12 Dec. 24, 1913: A man shouted, “Fire! Fire! Everybody rush!” in the Italian  
13 Hall where striking miners and their families were meeting for a Christmas party.  
14 (There was no fire.) As the crowd attempted to exit the hall through an inadequate  
15 exit, seventy-four people (mostly children) were trampled to death.<sup>133</sup> One account  
16 ascribed the false claim to “a drunken” man,<sup>134</sup> but considering the murder of  
17 strikebreakers in Calumet a few weeks before in the middle of a fierce labor  
18 dispute,<sup>135</sup> this seems unlikely as the cause.

19 Category: public

20 Suicide: no

21 Cause: labor

22  
23 \_\_\_\_\_  
24 <sup>132</sup> Villisca Ax Murders to Be Discussed in Mass Meeting, OMAHA DAILY BEE,  
25 Jul. 6, 1917, 1.

26 <sup>133</sup> *Ore Miner Charged Eight-Seven Cents for Month’s Labor*, OMAHA DAILY  
27 BEE, Feb. 12, 1914, 1.

28 <sup>134</sup> *Day of Joy is One of Sorrow*, [Valley City, N.D.] WEEKLY TIMES-RECORD,  
29 January 1, 1914, 6.

30 <sup>135</sup> *Strike Breakers Taken to Mines at Point of Pistols*, OMAHA DAILY BEE, Jan.  
31 11, 1914, 1 (based on U.S. Dept. of Labor report).

1 Weapon: mouth<sup>136</sup>

2 **i. Causes**

3 The focus of the State on the *method* of mass murder might be better spent on  
4 solving the problem by solving underlying causes.

5 The following table shows the proximate cause of all mass murders in my database  
6 before 1960. (After 1960, the data is not yet complete.) A breakdown of these  
7 abbreviations:

- 8 • **Rob** is a mass murder performed as part of a robbery or to  
9 eliminate witnesses to the robbery.
- 10 • **MI** (Severe mental illness, primarily psychoses and other  
11 illnesses that cut off the sufferer from reality) includes all crimes  
12 where either contemporary accounts describe the murderer as  
13 insane, or where the nature of the crime makes other explanations  
14 implausible (this is necessarily a judgment call, on which my  
15 experience with mentally ill relatives and friends informs my  
16 opinion). The legal definition of mental illness is much narrower  
17 than the medical definition. Through most of U.S. history, the  
18 McNaughton Rule (sometimes spelled M'Naughten) defined  
19 legal insanity as: "at the time of committing the act, the accused  
20 was laboring under such a defect of reason, from disease of the  
21 mind, as not to know the nature and quality of the act he was  
22 doing or, if he did know it, that he did not know what he was  
23 doing was wrong."<sup>137</sup> A person who did not know he was doing  
24 wrong, was insane.  
25 Persons who are medically mentally ill sometimes know that  
26 they are doing wrong and try to escape arrest and conviction  
27 (perhaps because the "aliens," or the CIA or KGB "agents" that  
28 they have just murdered are still after them). Such persons are  
legally sane, while in any conventional sense, they are as "mad  
as hatters."
- **MI?** are persons whose sanity seems questionable but for which  
contemporary accounts are less than persuasive.

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136 *Ore Miner Charged Eight-Seven Cents for Month's Labor*, OMAHA DAILY  
BEE, Feb. 12, 1914, 1.

137 The insanity defense and Diminished Capacity,  
<https://www.law.cornell.edu/background/insane/insanity.html>

- 1 • **PPD** (Postpartum Depression): Tragically, many of these  
2 mentally ill or possibly mentally ill incidents are mass murders  
3 by mothers with recently born babies. In cases where the  
4 murders are by recent mothers and where news accounts provide  
5 no other explanation, I have categorized these as **postpartum**  
6 **depression**. Some news accounts identified the mother as  
7 ‘temporarily insane’ with no previous history of mental illness.  
8 In a few cases the news accounts report on previous mental  
9 illness hospitalizations associated with previous births.
- 10 • Many cases I have listed as “**PPD?**” because this is a plausible  
11 explanation when no other seems more likely.
- 12 • **Resist** is a criminal resisting arrest.
- 13 • **Unknown** describes a very large number of crimes where either  
14 the motivation is unclear, or the newspaper coverage is silent;  
15 this also includes some mass murders where the inability to  
16 identify the murderer makes cause impossible to determine.
- 17 • **Religion** is mass murders committed as part of religious  
18 persecution. (And yes, in America!)
- 19 • **Racism** is its frequent cousin. In some cases, these include  
20 revenge or retribution against Indians for crimes not, or at least  
21 not clearly committed by the victims.
- 22 • **Politics** are murders committed to advance a political cause.
- 23 • **Terror** are mass murders committed to cause mass fear for  
24 purposes of political change outside elections. Example: 9/11.
- 25 • **Revenge** are mass murders committed to take revenge for real or  
26 perceived injuries by the murderer, his family, or acquaintances.
- 27 • **Ind** are crimes between Indians and settlers that are not official  
28 acts of war, but that might have been seen that way by the  
murderers. I have classified all attacks against peaceful travelers,  
settlers, and Indians in this cause. (In some cases, the killers  
openly admitted that the victims were “peaceful,” but were  
supplying guns to less friendly tribes.)<sup>138</sup>

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<sup>138</sup> From California and Oregon, [Washington, D.C.] EVENING STAR, Mar. 21, 1860, 2.

- 1 • **Financial** is a strange subclass of family murders committed  
2 usually by a parent concerned their family is about to become  
3 impoverished, who then “protect” them from that suffering by  
4 mass murder. In some cases, this seems to be a form of mental  
5 illness: at least one example involved a mass murderer who was  
6 in no danger of impoverishment.
- 7 • **Labor** are crimes committed during labor disputes, sometimes  
8 against strikebreakers, sometimes against labor unionists.
- 9 • **Quarrel** are incidents that start out as some relatively minor  
10 dispute before escalating into disproportionate response.
- 11 • **Cult** refers to mass murders committed by oddball religious  
12 cults; I was surprised how widespread these were in the early 20<sup>th</sup>  
13 century (the Church of the Sacrifice slaughtered entire families,  
14 often with the family’s own ax).
- 15 • **Rape** are mass murders committed to eliminate witnesses to a  
16 rape.
- 17 • **Greed** are mass murders carried out to obtain wealth other than  
18 by robbery, often by inheritance from the deceased.
- 19 • **Divorce** is an alternative form of **Revenge**; divorce has been or  
20 is in the process and someone is seeking retribution. This  
21 includes separated spouses attempting reconciliation.
- 22 • **Adultery**: a variant of **Revenge**.
- 23 • **Jealousy**: should be obvious.
- 24 • **Intoxication** are crimes attributed to alcohol or drug-induced  
25 stupidity. The strong overlap between **mental illness** and  
26 **substance abuse** (one often causing the other) makes some of  
27 these hard to distinguish, especially 150 years after the crime.
- 28 • **Bullying** is a recent category, and one that I suspect reflects some  
deeper mental illness.
- **Stalker**: someone did not get their attentions rewarded as they  
saw fit.
- **Witnesses**: Eliminating witnesses to some crime other than rape  
or robbery.

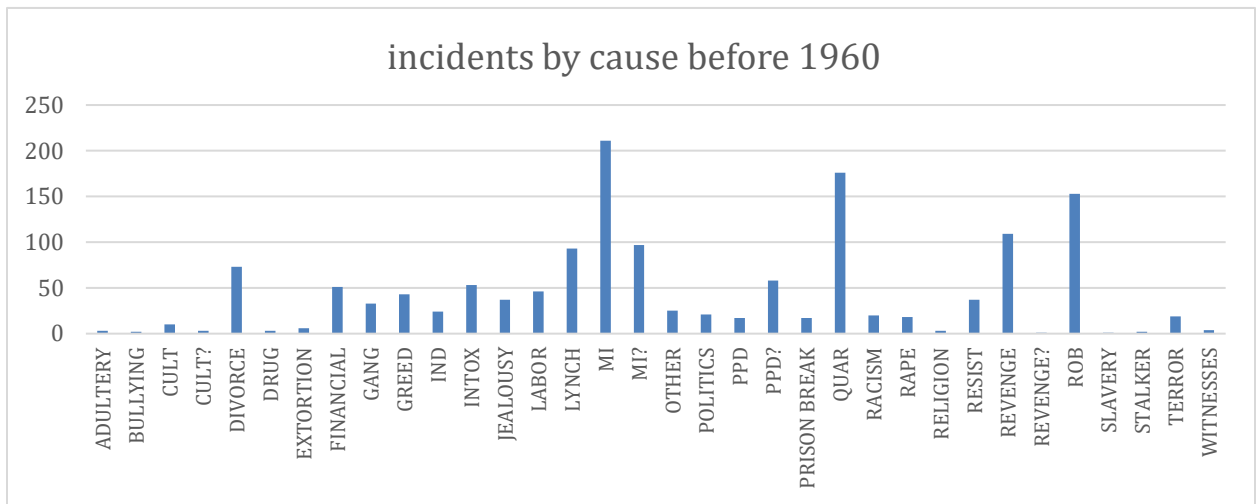
1 **incidents by cause before 1960**

Cause	incidents
ADULTERY	3
BULLYING	2
CULT	10
CULT?	3
DIVORCE	73
DRUG	3
EXTORTION	6
FINANCIAL	51
GANG	33
GREED	43
IND	24
INTOX	53
JEALOUSY	37
LABOR	46
LYNCH	93
MI	211
MI?	97
OTHER	25
POLITICS	21
PPD	17
PPD?	58
PRISON BREAK	17
QUAR	176
RACISM	20
RAPE	18
RELIGION	3
RESIST	37
REVENGE	109
REVENGE?	1
ROB	153

1 incidents by cause before 1960

Cause	incidents
SLAVERY	1
STALKER	2
TERROR	19
UNKNOWN	447
WITNESSES	4

7 Plotting the cause without UNKNOWN shows the high frequency causes:



17  
18 It should surprise no one that mental illness and likely mental illness are a  
19 high frequency category. While most mentally ill people are primarily a hazard to  
20 themselves, severely mentally ill people are overrepresented in murder and other  
21 violent crimes.<sup>139</sup> Deinstitutionalization of the mentally ill starting with New York  
22 in 1964 and California in 1969 played significant roles in increased homelessness  
23 and violent crime rates.<sup>140</sup>

25 <sup>139</sup> See Clayton E. Cramer, *Mental Illness and the Second Amendment*. 46  
26 Connecticut Law Review 1301-6 (May 2014):(collecting studies).

27 <sup>140</sup> See Clayton E. Cramer, MY BROTHER RON: A PERSONAL AND SOCIAL HISTORY  
28 OF THE DEINSTITUTIONALIZATION OF THE MENTALLY ILL (2012) and Jean Isaac Rael  
and Virginia C. Armat, MADNESS IN THE STREETS: HOW PSYCHIATRY AND THE LAW

1 Professor Bernard E. Harcourt points out that the rise in murder rates in the  
2 1960s, and their decline in the 1990s correlated with the change in the percentage of  
3 the population that was institutionalized: those who were confined to either a mental  
4 hospital or prison. According to Harcourt, sociologists examining the expansion of  
5 imprisonment in the 1990s, the so-called “incarceration revolution,” missed the even  
6 more important component of institutionalization: mental hospitals. When adding  
7 mental hospital inmates to prisoners, Harcourt found an astonishingly strong  
8 negative correlation between the institutionalization rate, and the murder rate: -0.78.  
9 Harcourt found that even when adjusting for changes in unemployment and the  
10 changing fraction of the population that was at their peak violent crime ages, the  
11 negative correlation remained strong, and did a better job of predicting both the  
12 1960s rise and the 1990s decline in murder rates than other models.<sup>141</sup>

13 Steven P. Segal of the University of California, Berkeley studied state-to-state  
14 variations in murder rates and mental health care, controlling for socioeconomic,  
15 demographic, and geographic data. He concluded that “[l]ess access to psychiatric  
16 inpatient-beds and more poorly rated mental health systems were associated with  
17 increases in the homicide rates of 1.08 and 0.26 per 100,000, respectively.” (Since  
18 the national average homicide rate was 7.4 per 100,000 people for 2020,<sup>142</sup> more  
19 access to beds is clearly quite important in reducing homicide rates; “poorly rated  
20 mental health systems” matter, but not as dramatically.)

21  
22 ABANDONED THE MENTALLY ILL (1990) for how beautiful abstract theories and  
23 fanaticism created the tragic urban landscape of modern America.

24 <sup>141</sup> Bernard E. Harcourt, From the Asylum to the Prison: Rethinking the  
25 Incarceration Revolution, 84 *Texas Law Review* 1766-75 (2006).

26 <sup>142</sup> Centers for Disease Control and Prevention, National Center for Health  
27 Statistics. National Vital Statistics System, Mortality 1999-2020 on CDC WONDER  
28 Online Database, released in 2021. Data are from the Multiple Cause of Death Files,  
1999-2020, as compiled from data provided by the 57 vital statistics jurisdictions  
through the Vital Statistics Cooperative Program. Accessed at  
<http://wonder.cdc.gov/ucd-icd10.html> on Nov 3, 2022 12:51:23 PM

1 Segal observed an even greater difference from the variation in involuntary  
2 civil commitment (ICC) laws. “Broader ICC-criteria were associated with 1.42 less  
3 homicides per 100,000” or bit more than one-fourth of the national homicide rate. In  
4 short, states where involuntary commitment of the mentally ill was relatively easy  
5 had significantly fewer murders than states where it was very hard.<sup>143</sup>

6 A 2000 *New York Times* examination of mass murderers concluded:

7 The Times' study found that many of the rampage killers... suffered  
8 from severe psychosis, were known by people in their circles as being  
9 noticeably ill and needing help, and received insufficient or inconsistent  
10 treatment from a mental health system that seemed incapable of helping  
11 these especially intractable patients.

12 Only a small percentage of mentally ill people are violent, and many  
13 advocates bristle at any link between mental illness and violence out of  
14 concern that it will further stigmatize an already mistreated population.

15 However, the Times investigation of this particular style of violence --  
16 public rampage killings -- turned up an extremely high association  
17 between violence and mental illness. Forty-seven of the killers had a  
18 history of mental health problems before they killed; 20 had been  
19 hospitalized for psychiatric problems; 42 had been seen by mental  
20 health professionals.<sup>144</sup>

21 A few representative cases from the period before 1960:

22 **New Haven, Conn. (1930)**

23 Jun. 21, 1930: The father had been involuntarily committed to a mental  
24 hospital. He escaped, threw his four children and wife from a 400-foot cliff, then  
25 jumped.

26 Category: family

27 <sup>143</sup> Steven P. Segal, Civil Commitment Law, Mental Health Services, and US  
28 Homicide Rates, SOCIAL PSYCHIATRY AND PSYCHIATRIC EPIDEMIOLOGY, November  
10, 2011, <https://web.archive.org/web/20170323153646/http://kendras-law.org/national-studies/commitmenthomiciderates.pdf>, last accessed August 19,  
2022.

<sup>144</sup> Laurie Goodstein and William Glaberson, The Well-Marked Roads to  
Homicidal Rage, NEW YORK TIMES, Apr. 10, 2000.

1 Suicide: yes

2 Cause: mental illness

3 Weapon: other<sup>145</sup>

4 **New York, N.Y. (1953)**

5 Apr. 01, 1953: A college professor, 52, under psychiatric care, strangled his  
6 wife and their two children, then stabbed himself to death.

7 Category: family

8 Suicide: yes

9 Cause: mental illness

10 Weapon: strangled<sup>146</sup>

11 **Eleva, Wisc. (1909)**

12 Feb. 2. 1909: The father stabbed to death his four children, then “stabbed  
13 himself and then jumped from the barn loft with a rope around his neck. At the  
14 same time he hurled a fire brand into the stable, firing the barn.”

15 Category: family

16 Suicide: Yes.

17 Cause: “[Father] was recently released from an insane asylum.”

18 Weapon: knife<sup>147</sup>

19 **ii. Summary**

20 Mass murder is not particularly new, nor is historical mass murder a  
21 peculiarly group activity. Almost everything can be, and has been, used to commit  
22 mass murder in America. The mass murder at Cleveland School in 1989 that started  
23 California’s legislative focus on LCMs involved a mentally ill drifter with a history  
24

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25 <sup>145</sup> Maniac Veteran Kills His Family, NEW BRITAIN HERALD, Jun. 23, 1930, 9.

26 <sup>146</sup> Triple Murder, Suicide Apparent, [Parsons, Kansas] PARSONS SUN, Apr. 04,  
1953, 7.

27 <sup>147</sup> *Murders Whole Family and Then Kills Self*, [Pendleton, Ore.] EAST  
28 OREGONIAN, Feb. 22, 1909, 8.

1 of involuntary commitment and a spotty record of outpatient treatment. As the  
2 California Dept. of Justice's official report observed:

3 In an ideal world, ample resources would have been available to detect  
4 his problems, identify them as potentially dangerous and likely to result  
5 in his life being uselessly wasted, and to provide for a type of  
6 intervention with a reasonable prospect of making a difference.  
7 However, in a world in which government spending has to recognize  
8 realistic limits set by the public, such resources will never be plentifully  
9 available.<sup>148</sup>

10 This is an especially painful paragraph for me. My smarter, older brother's  
11 spiral down into schizophrenia resulted in brushes with the law, sometimes for  
12 unprovoked attacks on strangers, but never with such a horrible ending. It was still a  
13 life wasted by California's confused and irrational mental health policy. Has more  
14 than 20 years of LCM laws, defenses of those laws, prison sentences for offenders,  
15 and dealing with other mass murders (not all with guns) *really* been cheaper than  
16 providing mental health care?

17 The focus of the State on the *method* of mass murder might be better spent on  
18 solving the underlying *causes*. This abstract closes with a chilling sentence:

19 A case of an attempted mass shooting at a large psychiatric hospital in  
20 the United States by a 30-year-old male with severe mental illness,  
21 somatic delusions, and exceptional access to healthcare professionals is  
22 reported. Six persons were shot, one died at the scene, and the shooter  
23 was then killed by the police. Data were gathered from court documents  
24 and media accounts. An analysis of the shooter's psychiatric history, his  
25 interactions with healthcare professionals, and communications prior to  
26 the shooting suggest a rare form of mass murder, a random attack by a  
27 documented psychotic and delusional individual suffering with somatic  
28 delusions. Despite his being psychotic, the killer planned the attack and  
29 made a direct threat 1 month prior to the shootings. **This case highlights  
30 problems with the healthcare system, indicating that it might be ill**

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31 <sup>148</sup> Nelson Kempsey, *A Report to Attorney-General John K. Van de Kamp on*  
32 *Patrick Edward Purdy and the Cleveland School Killings*, October, 1989, 19,  
33 <https://schoolshooters.info/sites/default/files/Purdy%20-%20official%20report.pdf>,  
34 last accessed November 26, 2022.

1 equipped to appropriately deal with severe mental illness.<sup>149</sup>  
2 [emphasis added]

3 Confronting the extent which a shortage of mental health services and the  
4 difficult nature of involuntary mental health commitment in much of America would  
5 be a more effective strategy. A severely mentally ill person without an LCM could  
6 follow in the footsteps of previous generations and use less regulated weapons: ax,  
7 hatchet, knife, poison, trail derailment.

8 **VI. Background and Qualifications**

9 A copy of my *curriculum vitae* is attached to this Report as Exhibit 1.

10 I was retained at a rate of \$75/hour to prepare this declaration.

11 My compensation is not in any way dependent on the outcome of this or any  
12 related proceeding, or on the substance of my opinion.

13  
14 I declare under penalty of perjury that the foregoing is true and correct.

15 Executed within the United States on February 3, 2023.

16  
17   
18 \_\_\_\_\_  
19 Clayton Cramer  
20 Declarant  
21  
22  
23  
24  
25

26 \_\_\_\_\_  
27 <sup>149</sup> Christine Sarteschi. (2015). Severe Mental Illness, Somatic Delusions, and  
28 Attempted Mass Murder. JOURNAL OF FORENSIC SCIENCES. 61. 10.1111/1556-  
4029.12876.

# **EXHIBIT 1**

**Clayton E. Cramer**  
36 Sunburst Road  
Horseshoe Bend, ID 83629  
(208) 793-3044  
clayton@claytoncramer.com  
<http://www.claytoncramer.com>

**EDUCATION:**

June, 1998 Sonoma State University, Rohnert Park, California  
M.A. in History  
*Master's Thesis: "Concealed Weapon Laws of the Early Republic"*  
June, 1994 B.A. in History  
*Honors: cum laude and With Distinction*

**AWARDS:**

1993 Association for Education in Journalism and Mass Communication  
Ethics Prize  
First Place, Undergraduate Division

**TEACHING EXPERIENCE:**

Fall, 2017 – *Adjunct Faculty:* College of Western Idaho, Nampa, teaching  
present **Western Civilization I, U.S. History I.**

Fall, 2014 – Recovering from stroke  
Spring,  
2017

Spring,  
2010 – *Adjunct Faculty:* College of Western Idaho, Nampa, teaching  
**Western Civilization I, U.S. History I.**  
Spring,  
2014

Fall, 2009 – *Adjunct Faculty:* ITT Technical Institute, Boise, teaching **State and**  
Summer **Local Government and Introduction to Computers.**  
2010

Fall, 2003 *Adjunct Faculty:* Boise State University, teaching **U.S. Constitutional**  
**History** and at George Fox University (Boise Center), teaching  
**America and the World.**

1996

**Teaching Assistant:** Assisted Professor Peter Mellini in his course “Twentieth Century World.” I graded quizzes, exams, and answered weekly written questions from students. I also prepared and lectured about the rise of totalitarianism in the period between the world wars.

**BOOKS:**

*Lock, Stock, and Barrel: The Origins of America Gun Culture*  
Praeger Press, 2018

*Social Conservatism in An Age of Revolution: Legislating Christian Morality in Revolutionary America*  
CreateSpace, 2016

*Historical Evidence Concerning Climate Change: Archaeological and Historical Evidence That Man Is Not the Cause*  
CreateSpace, 2016

*My Brother Ron: A Personal and Social History of the Deinstitutionalization of the Mentally Ill*  
CreateSpace, 2012

*Armed America: The Remarkable Story of How and Why Guns Became as American as Apple Pie*  
Nelson Current, 2006

*Concealed Weapon Laws of the Early Republic: Dueling, Southern Violence, and Moral Reform*  
Praeger Press, 1999

*Black Demographic Data, 1790-1860: A Sourcebook*  
Greenwood Press, 1997

*Firing Back: Defending Your Right to Keep and Bear Arms*  
Krause Publishing, 1995

*For The Defense of Themselves and the State: The Original Intent and Judicial Interpretation of the Right to Keep and Bear Arms*  
Praeger Press, 1994

*By The Dim and Flaring Lamps: The Civil War Diary of Samuel McIlvaine*, editor  
Library Research Associates, Inc., 1990

## SELECTED PUBLICATIONS:

“Bellesiles’ Arming America Redux: Does the Gunning of America Rewrite American History to Suit Modern Sensibilities?” Southern Illinois University Law Journal Spring 2017 Forthcoming

“Assault Weapon Bans: Can They Survive Rational Basis Scrutiny?” *University of Akron ConLawNow* 8:1, article 1.

Co-authored with David B. Kopel and Joseph Olson, "Knives and the Second Amendment," *University of Michigan Journal of Legal Reform*, 47:1 167-215 (2013).

“Mental Illness and the Second Amendment,” 46 Conn. Law Review 4:1301 (2014).

Co-authored with David B. Kopel, “State Court Standards of Review for the Right to Keep and Bear Arms,” 50 *Santa Clara Law Review* 101-208 (2010).

Co-authored with David B. Kopel, "The Keystone of the Second Amendment: Quakers, the Pennsylvania Constitution, and the Questionable Scholarship of Nathan Kozuskanich," 19 *Widener Law Journal* 277-320 (2010).

Co-authored with Nicholas J. Johnson and George A. Mocsary, “This Right is Not Allowed by Governments that are Afraid of the People’: The Public Meaning of the Second Amendment When the Fourteenth Amendment was Ratified,” 17 *George Mason Law Review* 3:823-862 (2010).

Co-authored with Don B. Kates, “Second Amendment Limitations and Criminological Considerations,” 61 *Hastings Law Journal* 1339-1370 (2009).

Co-authored with Joseph Edward Olson, “Gun Control: Political Fears Trump Crime Control,” *Maine Law Review*, 61:1 [2009] 57-81

Co-authored with Joseph Edward Olson, "What Did "Bear Arms" Mean in the Second Amendment?" *Georgetown Journal of Law & Public Policy*, 6:2 [2008]

Co-authored with Joseph Edward Olson, "Pistols, Crime, and Public Safety in Early America." *Willamette Law Review*, 44, [2008]

“Why Footnotes Matter: Checking *Arming America's* Claims.”  
*Plagiary* 2006 1 (11): 1-31 [29 September 2006]

“Michael Bellesiles and Guns in the Early Republic.” *Ideas on Liberty* 52:9 [September, 2002] 17-22.

“The Peaceable Kingdom?” *Books & Culture: A Christian Review*, July/August 2002, 29.

“Confiscating Guns From America’s Past.” *Ideas on Liberty* 51:1 [January, 2001] 23-27.

“Disarming Errors.” *National Review*, October 9, 2000, 54-55.

“An American Coup d'Etat?” *History Today* [November, 1995].

“A Tale of Three Cities: The Right to Bear Arms in State Supreme Courts.” *Temple Law Review* 68:3 [Fall, 1995] 1178-1241. Co-authored with David Kopel and Scott Hatrup.

“‘Shall Issue’: The New Wave of Concealed Handgun Permit Laws.” *Tennessee Law Review* 62:3 [Spring, 1995] 679-757.

“The Racist Roots of Gun Control.” *Kansas Journal of Law & Public Policy* 4:2 [Winter, 1995] 17-25.

“Ethical Problems of Mass Murder Coverage in the Mass Media.” *Journal of Mass Media Ethics* 9:1 [Winter, 1993-94] 26-42.

A comprehensive list of popular magazine articles would run to many pages; for a complete list see <http://www.claytoncramer.com/popular/popularmagazines.htm> .

## **CONFERENCES & EXPERT TESTIMONY:**

Ohio State Senate Judiciary Committee, March 22, 1995.

Michigan House of Representatives Judiciary Committee, December 5, 1995

American Society of Criminology, San Diego, Cal., November, 1997. “Fear And Loathing In Whitehall: Bolshevism And The Firearms Act Of 1920.”

American Society of Criminology, Chicago, Ill., November, 2002. “The Duty to be Armed in Colonial America.”

Assisted in research and writing of Respondent's Brief and Academics for the Second Amendment and Claremont Institute amicus briefs for *D.C. v. Heller* (2008).

Panelist on "Up in Arms: The Second Amendment in the Modern Republic" University of Connecticut School of Law, November 15, 2013.

#### **WORKS CITED IN COURT DECISIONS:**

"'Shall Issue': The New Wave of Concealed Handgun Permit Laws," cited in *Pagel v. Franscell*, 57 P.3d 1226, 1234 (Wyo. 2002); *Moody v. ARC of Howard County, Inc.*, Civil No. JKB-09-3228 (D.Md. 2011).

"'This Right is Not Allowed by Governments that are Afraid of the People!'" cited in *McDonald v. Chicago* (2010); *Ezell v. City of Chicago* (7<sup>th</sup> Cir. 2011).

"Second Amendment Limitations and Criminological Considerations" cited in *U.S. v. Yancey*, 09-1138 (7<sup>th</sup> Cir. 2010); *U.S. v. Chester*, 628 F.3d 673 (4<sup>th</sup> Cir. 2010); *U.S. v. Skoien*, 587 F.3d 803 (7<sup>th</sup> Cir. 2009).

"What Did 'Bear Arms' Mean in the Second Amendment?," cited in *D.C. v. Heller* (2008). In addition, significant parts of Justice Scalia's opinion are derived from amicus briefs that I helped to research and write.

*For the Defense of Themselves and the State*, cited in *Mosby v. Devine*, 851 A.2d 1031, 1052 (RI 2004) (Flanders, J., dissenting); *U.S. v. Emerson*, 46 F.Supp.2d 598 (N.D.Texas 1999); *State v. Sieyes* 225 P. 3d 995 (Wash. 2010).

"A Tale of Three Cities," cited in *State v. Mendoza*, 920 P.2d 357, 360 n. 4 (Hawaii 1996).

*Concealed Weapon Laws of the Early Republic*, cited in *Senna v. Florimont*, 958 A.2d 427, 433 (N.J. 2008).

"Mental Illness and the Second Amendment," cited in *In Rec EC* (N.J.App. 2015).

A comprehensive and up to date list can be found at <http://claytoncramer.com/scholarly/journals.htm#citations>.

**LANGUAGES:**

Very basic reading competence in German.

**OTHER SKILLS:**

I have 35 years of experience as a computer software engineer, including embedded telecommunications equipment development, web page creation and maintenance. I also have an unusually detailed knowledge of the physical sciences (for an historian), a deep interest in the history of science and technology, and how both influence society.

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**CERTIFICATE OF SERVICE**  
IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

Case Name: *Rupp, et al. v. Becerra*  
Case No.: 8:17-cv-00746-JLS-JDE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

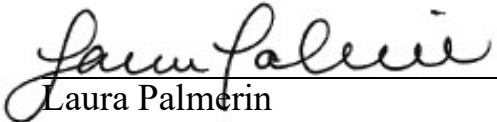
**EXPERT WITNESS REBUTTAL REPORT OF CLAYTON CRAMER**

on the following party by electronic mail.

Xavier Becerra  
Attorney General of California  
Anna Ferrari  
Deputy Attorney General  
Email: [anna.ferrari@doj.ca.gov](mailto:anna.ferrari@doj.ca.gov)  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct.

Executed February 3, 2023.

  
\_\_\_\_\_  
Laura Palmerin