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

13 STEVEN RUPP, et al.,  
14  
15 Plaintiffs,  
16  
17 vs.  
18 XAVIER BECERRA, in his official  
capacity as Attorney General of the State  
of California,  
19  
20 Defendant.

Case No.: 8:17-cv-00746-JLS-JDE  
**EXPERT WITNESS REBUTTAL  
REPORT OF GARY KLECK**

1 **My Qualifications**

2 1. I am an emeritus Professor of Criminology and Criminal Justice at  
3 Florida State University. I received my doctorate in Sociology from the University  
4 of Illinois in 1979, where I received the University of Illinois Foundation Fellowship  
5 in Sociology. I was, at the time of my retirement in May, 2016, the David J. Bordua  
6 Professor of Criminology at Florida State University, where I served on the faculty  
7 from 1978 to 2016. My research has focused on the impact of firearms and gun  
8 control on violence, and I have been called “the dominant social scientist in the field  
9 of guns and crime” (Vizzard, 2000, p. 183).

10 2. I have published the most comprehensive reviews of evidence  
11 concerning guns and violence in the scholarly literature, which informs and serves as  
12 part of the basis of my opinions. I am the author of Point Blank: Guns and Violence  
13 in America, which won the 1993 Michael J. Hindelang Award of the American  
14 Society of Criminology, awarded to the book of the previous several years which  
15 "made the most outstanding contribution to criminology." I also authored Targeting  
16 Guns (1997) and, with Don B. Kates, Jr., The Great American Gun Debate (1997)  
17 and Armed (2001) – books that likewise addressed the topic of guns and violence.

18 3. I have also published scholarly research articles in virtually all of the  
19 leading professional journals in my field. Specifically, my articles have been  
20 published in the American Sociological Review, American Journal of Sociology,  
21 Social Forces, Social Problems, Criminology, Journal of Criminal Law and  
22 Criminology, Law & Society Review, Journal of Research in Crime and  
23 Delinquency, Journal of Quantitative Criminology, Law & Contemporary Problems,  
24 Law and Human Behavior, Law & Policy Quarterly, Violence and Victims, Journal  
25 of the American Medical Association, and many other scholarly journals.

26 4. I have testified before Congress and state legislatures on gun control  
27 issues, and worked as a consultant to the National Research Council, National  
28 Academy of Sciences Panel on the Understanding and Prevention of Violence, as a

1 member of the U.S. Sentencing Commission's Drugs-Violence Task Force, and as a  
2 member of the Institute of Medicine and National Research Council Committee on  
3 Priorities for a Public Health Research Agenda to Reduce the Threat of Firearm-  
4 Related Violence. I am a referee for over a dozen professional journals, and serve as  
5 a grants consultant to the National Science Foundation.

6 5. Finally, I have taught doctoral students how to do research and evaluate  
7 the quality of research evidence, and have taught graduate courses on research  
8 design and causal inference, statistical techniques, and survey research methodology.  
9 My current curriculum vitae is attached as Exhibit 1.

10 6. I am being compensated for my work at the rate of \$400 per hour.

## 11 **Response to Lucy Allen Supplementary Expert Report**

### 12 *Few Mass Shootings Involve Large-Capacity Magazines (LCMs)*

13 7. Allen claims that there is substantial benefit to banning LCMs because  
14 a large share of mass shooting involve the use of LCMs (defined herein as  
15 magazines holding more than 10 rounds). She is only able to sustain this claim by  
16 limiting her analysis to a trivially tiny and unrepresentative subset of mass  
17 shootings, *public* mass shootings. She claims she did this because “it is my  
18 understanding that the state of California is concerned about public mass shootings  
19 and enacted the challenged laws, in part, to address the problem of public mass  
20 shootings” (p. 4). Her “understanding” is both subjective and unsupported by any  
21 evidence pertaining to legislative intent behind enactment of California’s ban on  
22 LCMs and assault weapons (AWs). Indeed, defense expert Louis Klarevas’  
23 description of California’s legislative intent (Klarevas 2023, p. 23) indicates that  
24 concern about mass shootings was *not* limited to those occurring in public places.  
25 The fact that the State of California is concerned about public mass shootings does  
26 not mean it is not concerned with all the other shootings that do not fall into this  
27 narrow category. Further, Allen’s own statement concedes that California’s assault  
28 weapons ban (AWB) was enacted only “in part” to address these kinds of shootings,

1 and thus must have also been based on concerns about other kinds of gun violence.  
2 Thus, her proffered explanation does not justify her narrow focus. It will be shown  
3 later that the narrowness of her focus produces some highly misleading results.

4 8. First, it should be made clear just how narrow her focus is. Less than  
5 1% of all U.S. murder victims are killed in *any* kind of a mass shooting, regardless  
6 of location or other attributes. A Congressional Research Service (CRS) study  
7 covering 1999-2013 found that 1,554 victims were killed in all mass shootings  
8 (Krouse and Richardson 2015, p. 14), a period for which FBI data indicated that  
9 there were 237,524 persons murdered (U.S. FBI 2013). Thus, only 2/3rds of one  
10 percent of murders were part of a mass shooting of any kind  
11 ( $1,554/237,524=0.0065$ ). Second, even within this tiny subset of killings, only  
12 20.8% of mass shooting incidents were public mass shootings (Krouse and  
13 Richardson 2015, p. 29). The 446 victims killed in public mass shootings therefore  
14 accounted for 0.00188 of U.S. murder victims, or just 1 in 533 victims. Thus, public  
15 mass shootings contribute an even tinier share of firearms violence than mass  
16 shootings as a whole. Allen's focus on this set of killings likewise cannot be  
17 justified on the basis of their constituting a significant share of America's violence.

18 9. The main consequence of this extremely narrow focus is that it allows  
19 Allen to make the misleading claim that a large share of killings involve use of  
20 LCMs. LCMs are of little or no significance in ordinary gun crimes with few  
21 victims and few shots fired (Kleck 1997, pp. 121-128; 2016), so advocates of LCM  
22 restrictions claim that their benefit is most likely to lie within the set of mass  
23 shootings, where many shots are fired and LCMs supposedly increase the casualty  
24 count. However, even within this subset of violent crimes – mass shootings as a  
25 whole - LCMs are rarely involved (Kleck 2016). The Violence Policy Center  
26 (2023), which advocates bans on LCMs, was able to identify only 29 incidents with  
27 four or more dead (excluding the shooter) over the 9 year period from 2014 through  
28 2022 that involved LCMs – about 3 per year in the entire United States (note that

1 this organization inflated their numbers somewhat by including incidents involving  
2 only three dead victims besides the shooter and by counting shooters in their  
3 victims-killed totals; they been excluded here).

4 10. Over the 38 year period from 1980 through 2017, VPC-identified  
5 incidents with four or more dead victims accounted for 534 murdered victims, or  
6 about 14 per year. Over this same period, the FBI (2017) reports a total of 704,651  
7 murders (assuming the same number of murders in 2017 as in 2016). Thus, mass  
8 shootings (4+ dead) known to involve LCMs accounted for just 0.000758 of murder  
9 victims, or 1/13<sup>th</sup> of one percent (Kleck 2016).

10 11. *Public* mass shootings account for an even tinier fraction of U.S.  
11 homicide deaths, and are far more likely to involve “assault weapons” or LCMs.  
12 The Congressional Research Service found that only 9.78% of all mass shootings in  
13 1999-2013 involved “assault weapons,” but in the minority of incidents that were  
14 *public* mass shootings, 27.3% (18 or 66) involved use of “assault weapons” (Krouse  
15 and Richardson 2015, p. 29). In sum, it is only within the tiny subset of *public* mass  
16 shootings that a nonnegligible share involve use of LCMs. Thus, arbitrarily limiting  
17 her analysis to these extremely rare and unrepresentative public mass shootings  
18 thereby allowed Allen to report misleadingly high shares of the incidents as  
19 involving AWs or LCMs.

20 12. LCM use is even less relevant to the vast majority of criminal violence  
21 that does not involve large numbers of victims. Criminals rarely fire large numbers  
22 of rounds in a given gun crime incident, so possession of magazines capable of  
23 holding more than ten rounds of ammunition merely provides, in the typical violent  
24 gun crime, surplus rounds that are not fired and thus cannot injure additional  
25 victims. A study of Jersey City, NJ, found that offenders did not even fire a single  
26 shot in over two-thirds of crimes in which the offender was armed with a handgun  
27 (Reedy and Koper 2003, p. 153). Of all violent crimes in which handguns *were*  
28 fired, only 2.5-3.0% involved more than 10 rounds being fired by the offender (p.

1 154). Even if we consider only incidents in which semi-automatic pistols *were* fired,  
2 only 3.6-4.2% of the incidents involved over 10 rounds being fired, which is in turn  
3 only 1.7-2.0% of *all* handgun violent crimes (whether the gun was fired or not). The  
4 average number of rounds fired was 3.23-3.68 in semi-automatic pistol incidents in  
5 which the gun was fired, and 2.30-2.58 in revolver incidents in which the gun was  
6 fired. Likewise, a study of gun homicides in Philadelphia found even fewer shots  
7 fired per incident than in the Jersey City study – only 2.7 shots per semi-automatic  
8 pistol killing in 1990 (McGonigal et al. 1993).

9 13. The only kind of shootings in which large numbers of rounds are  
10 commonly fired are mass shootings, incidents that involve many victims.  
11 Notwithstanding the massive news media attention paid to them, mass shootings are  
12 rare in absolute terms. For the most recent year for which we have complete data,  
13 2022, there were 36 known incidents with or more four persons killed (Gun  
14 Violence Archive 2023).

15 ***Mass Shooters Do Not Need LCMs to Inflict Large Numbers of Casualties***

16 14. Even in the extremely rare mass shootings in which large numbers of  
17 victims were shot, and the shooters used LCMs, they virtually never needed LCMs  
18 to injure or kill as many victims as they did, because they either (a) possessed  
19 multiple guns, (b) possessed multiple magazines, or (c) had ample time and  
20 opportunity to reload, using smaller-capacity magazines (Kleck 2016). Therefore,  
21 even the hypothetical potential for reducing harm or improving the public’s safety  
22 by limiting magazine capacity to no more than 10 rounds can be fairly described as  
23 being limited to a tiny number of extremely rare events.

24 15. One earlier study of 15 mass shootings with more than six victims  
25 wounded or killed that occurred in the United States over a ten year period (1984-  
26 1993 inclusive) found that offenders possessed multiple guns in thirteen of the  
27 fifteen incidents (about 87%). The killers in these mass shootings did not need  
28 LCMs to quickly fire large numbers of rounds or wound large numbers of victims –

1 they either just switched loaded guns or reloaded their guns without interference  
2 from bystanders (Kleck 1997, pp. 124-126, 144).

3 16. A more recent study of incidents with more than 6 victims were killed  
4 or wounded, covering 1994-2013, found that in *every single case*, the shooters  
5 possessed either multiple guns or multiple magazines (Kleck 2016). Thus, they  
6 could continue firing with no significant pause for reloading, either by switching  
7 guns or reloading detachable magazines, which takes only 3-4 seconds (Kleck  
8 2019).

9 17. Setting aside Allen’s focus on a tiny unrepresentative subset of mass  
10 shootings, what share *all* mass shootings involve use of LCMs? The most  
11 comprehensive listing of such incidents has been compiled by the Violence Policy  
12 Center (VPC), an advocacy organization that favors strong gun control laws and  
13 specifically supports bans on LCMs. Thus, VPC staff are well-motivated to locate  
14 every mass shooting involving the use of an LCM. VPC bases their data on news  
15 media reports, so the only LCM-involved mass shootings they are likely to miss  
16 would be those that every single news outlet they searched failed to note LCM  
17 involvement. The most comprehensive listing of *all* mass shootings (regardless of  
18 LCM involvement) can be found in the Gun Violence Archive (2023). Based on  
19 these two sources, the following table displays (1) the total number of incidents in  
20 which 4 or more victims were killed, and (2) the number of these incidents in which  
21 an LCM was known to have been used. The data cover the most recent years for  
22 which data are available, a period when, according to defense expert Louis Klarevas,  
23 LCM-involved mass shootings were at their most frequent.

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25 ///  
26 ///  
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28 ///

1 Table 1. The Share of Mass Shootings in Which LCMs Were  
2 Used, 2014-2022

3 Year	Total Mass Shootings	LCM-involved Mass Shootings
4 2014	16	0
5 2015	21	4
6 2016	25	4
7 2017	18	4
8 2018	15	3
9 2019	30	4
2020	19	0
2021	22	5
2022	35	5
2014-2022	201	29

10 18. Thus, even in the period when mass shootings and LCM-use was at its  
11 highest, only 14% ( $29/201=0.14$ ) of all mass shootings involved use of LCMs – a far  
12 cry from Allen’s 63% (p. 25). It would be more accurate to say that mass shooters  
13 *rarely* use LCMs.

14 19. One circumstance in which use of an LCM might affect the number of  
15 casualties, even if the shooter possessed multiple guns or multiple magazines, is one  
16 in which there were bystanders willing to tackle the shooter during his attempt to  
17 change magazines or firearms. The use of an LCM prior to that time could affect the  
18 number of victims shot, since the killer would have fired more rounds before  
19 needing to reload or switch guns, and before being tackled. There is, however, just  
20 one LCM-involved mass shooting in the past 25 years in which intervenors tackled  
21 the shooter while he *may* have been reloading a semiautomatic gun – the incident in  
22 Tucson, AZ in which a man tried to kill Representative Gabrielle Gifford.

23 20. Even regarding this unique incident, however, key details are in dispute,  
24 making it unclear whether bystanders intervened while the shooter was reloading, as  
25 opposed to dealing with a jammed gun resulting from a defective magazine. The  
26 shooter was indeed tackled by bystanders, but law enforcement examination of the  
27 shooter’s magazines indicated that a spring in one of his magazines had broken (*New*  
28 *York Times* January 10, 2011, p. A1). Thus, the shooter may have been struggling

1 with a jam caused by the defective magazine when he was tackled, rather than  
2 reloading. The distinction is critical because magazines of any size can malfunction,  
3 and this sort of opportunity for bystander intervention therefore could occur  
4 regardless of the capacity of magazines used by mass shooters and regardless of  
5 whether LCMs were banned. I know of no other mass shootings in the past 25 years  
6 in which the shooter was disrupted by bystanders while the shooter was attempting  
7 to reload or switch guns. Other cases in which it was claimed that a mass shooter  
8 using semi-automatic firearms was tackled by bystanders while reloading turn out to  
9 instead involve shooters struggling with a jammed gun.

10 21. It might also be speculated that, if mass shooters were denied LCMs,  
11 and consequently had to reload more often, this would slow the shooter's average  
12 rate of fire and extend the time the killer was not shooting, allowing some  
13 prospective victims additional time to escape. While this speculation has some *a*  
14 *priori* plausibility, it is nevertheless inconsistent with the rates of fire sustained in  
15 actual mass shootings. A change of the box-type magazines used in semi-automatic  
16 pistols and rifles takes no more than 3-4 seconds, and possibly even less, depending  
17 on the shooter's skill. Virtually all mass shooters, however, fire their guns at an  
18 average rate no faster than one round every 2 seconds, and usually fire at even  
19 slower rates. That is, the time interval that shooters need to change magazines is  
20 shorter than the interval between shots fired by actual mass shooters even when they  
21 are *not* reloading (Kleck 2016). Thus the need to switch magazines would almost  
22 never slow the rate of fire maintained by mass shooters, and would therefore almost  
23 never give victims additional time to escape during pauses in the shooting.

24 22. Kleck (2016, Table 3) summarized data on all 25 known LCM-involved  
25 mass shootings in the U.S. during 1994-2013 for which news media accounts  
26 provided information on both the number of shots fired and the time span in which  
27 shots were fired, thereby allowing reasonable estimates of rates of fire. Only 3  
28 shooters of the 21 total took less than 2 seconds per shot fired, and only 6 took under

1 4 seconds. Even with this handful of incidents with unusually rapid fire, however,  
2 the difference between (a) the 1.4 or 1.6 seconds average interval between shots  
3 observed in the two incidents with the fastest rates of fire, and (b) the 3-4 seconds  
4 that it takes to change a detachable magazine is not likely to even be perceptible to  
5 would-be intervenors. That is, they would be unlikely to even be aware of the very  
6 slight slowing of the killer's rate of fire necessitated by his changing of magazines.  
7 In sum, even if LCM bans forced some mass shooters to use smaller capacity  
8 magazines and therefore change magazines earlier and/or more often, it is highly  
9 unlikely that it would perceptibly reduce those offenders' rate of fire and thereby  
10 allow victims to take additional evasive actions that they otherwise would not have  
11 been able to take.

12 23. While limits on magazine capacity are not likely to affect mass  
13 shooters, they could impair the ability of some citizens to engage in lawful self-  
14 defense, in those crime incidents necessitating that the victim fire many rounds in  
15 order to stop the aggressive actions of offenders. In contrast to mass shooters,  
16 victims of crimes generally cannot plan for or anticipate crimes to occur at a specific  
17 time and place since these things are within their control. Therefore, they ordinarily  
18 cannot plan, as mass shooters do, to have many loaded guns and/or numerous  
19 magazines with them at the times and places in which particular crimes against them  
20 might occur. Victims who wish to defend themselves with firearms – especially if  
21 they were carrying their gun in a public place - usually have to make do with a  
22 single available gun and its ammunition capacity. Consequently, if their one gun or  
23 magazine's capacity was limited to 10 or fewer rounds, this means they could not  
24 fire more than 10 rounds at offenders attempting to harm them. Further, persons  
25 who are law-abiding would be unlikely to simply violate the law and acquire banned  
26 LCMs, as criminals do.

27  
28 ///

1 ***The Number of Defensive Gun Uses with Over 10 rounds Fired is Far Greater than***  
2 ***the Number of Crimes in Which LCM Use by the Offender Increased the Number***  
3 ***of Casualties***

4 24. Some defensive gun uses (DGUs) are likely to require large numbers of  
5 rounds being fired because (a) some crime victims face multiple offender adversaries  
6 who will not stop their aggression unless shot or fired upon, and because (b) typical  
7 crime victims will, under the stressful conditions of a crime victimization, miss with  
8 most of their shots. Regarding the first point, the 2008 U.S. Department of Justice's  
9 National Crime Victimization survey indicated that 17.4% of violent crimes in the  
10 United States involved two or more offenders, and that nearly 800,000 violent  
11 crimes occurred in 2008 in which the victim faced multiple offenders. Some of the  
12 victims in these 800,000 multiple-offender crimes would need to fire larger numbers  
13 of rounds to protect themselves because they would face multiple criminal  
14 adversaries.

15 25. As to how often victims can hit their intended criminal adversaries, a  
16 reasonable upper limit estimate of the marksmanship of crime victims can be  
17 inferred from a review of the many detailed studies that have been done of shootings  
18 by police officers in which the officers were trying to shoot criminal adversaries. In  
19 many of these shootings, the officers fired large numbers of rounds. Yet, in 63% of  
20 the incidents, the officers failed to hit even a single offender with even a single  
21 round (Geller and Scott 1993), implying a 37% "hit rate." "Hit rate" here means the  
22 percent of *incidents* in which the police officer achieved at least one hit on a  
23 criminal, not the percent of *shots fired* that hit a criminal. Since some incidents  
24 involved multiple shots being fired, the fraction of shots that hit the criminal would  
25 necessarily be even lower than the fraction of incidents in which the shooter achieved  
26 at least one hit, i.e. under 37%. Police officers are more likely than civilians to have  
27 the experience, training, and temperament to handle stressful, dangerous situations,  
28 so marksmanship among civilians using guns for self-protection is likely to be even  
poorer than that of police officers. Certainly there is no reliable empirical evidence

1 that civilian marksmanship in such situations is better than that of police officers, so  
2 civilians are likely to wound a criminal with less than 37% of their shots. Thus,  
3 these data indicate that the typical crime victim would have to fire at least three  
4 rounds in order to successfully wound each offender they tried to shoot. Crime  
5 victims facing four offenders, for example, would therefore need, on average, at  
6 least 12 rounds or more to wound all four of them. A ban on magazines with more  
7 than 10 rounds would make it impossible to fire this many rounds using a single  
8 magazine.

9       26. Lucy Allen nevertheless claims (p. 6) that virtually no defensive gun  
10 uses (DGUs) involve more than 10 rounds being fired. This claim, however, is  
11 based on two unreliable sources that use samples known to be biased and  
12 unrepresentative of DGUs in general. Her first source is the incidents reported in a  
13 National Rifle Association magazine, *The American Rifleman*. Allen concludes that  
14 “it is rare for a person, when using a firearm in self-defense, to fire more than ten  
15 rounds.” She does not confine this conclusion to persons whose defensive gun use  
16 (DGU) was reported in the *American Rifleman*, but clearly intends it to apply to  
17 American DGUs in general. The NRA’s database of “armed citizen” stories is not a  
18 representative sample of DGUs, nor does the NRA even claim it to be so. Allen  
19 herself does not claim that the NRA sample is representative of all DGUs. Indeed,  
20 her own remarks indicate the opposite—she acknowledges the possibility of bias in  
21 selecting cases “in favor of stories that put use of guns in self-defense in the best  
22 possible light.” Therefore, there is no formal basis for generalizing the results of any  
23 analysis of this sample to any larger population of DGUs.

24       27. The NRA sample of DGUs, however, is even worse than merely being  
25 unrepresentative of DGUs in a general way. More specifically, there is strong reason  
26 to believe that the sample will largely exclude DGU incidents in which the defender  
27 fired more than 10 rounds. NRA staff nonrandomly select these incidents from news  
28 media-reported cases of DGU, most of them submitted by readers of the “Armed

1 Citizen” feature of *American Rifleman*. Based on the content of these stories  
2 published in the magazine, it is clear that they are selected to convey the impression  
3 that DGU is an extremely legitimate and successful activity, engaged in by law-  
4 abiding persons, for clearly legally justifiable purposes, carried out in clearly lawful  
5 ways. The reality of the full array of DGUs is considerably more diverse, but the  
6 NRA has a political agenda to portray DGU in as positive a light as possible.

7 28. Allen is quite right to note that the selection practices of NRA staff are  
8 likely to favor inclusion of DGU stories that put DGU “in the best possible light.”  
9 She does not, however, appear to understand how this bias would work regarding  
10 stories in which defenders fired large numbers of rounds. It could not serve the  
11 NRA’s purposes to disseminate accounts of DGUs in which the defenders appeared  
12 to indiscriminately “fling lead,” firing arguably excessive numbers of rounds at their  
13 adversaries. The more seemingly excessive the defender’s use of force appears to be,  
14 the less likely it is that his actions would appear to a reader to be justifiable. Instead,  
15 NRA staff would better serve their political ends by selecting stories of DGUs in  
16 which the defenders faced serious threats, but used the minimum amount of force  
17 needed to defend themselves, firing the fewest rounds needed to serve that purpose.  
18 This would bias the sample of NRA-selected DGUs in the direction of excluding  
19 cases in which many rounds were fired.

20 29. Even though the NRA sample is not representative of DGUs in general,  
21 Allen’s analysis of the NRA sample does nevertheless establish one thing: DGUs in  
22 which more than 10 rounds are fired do occur. Her analysis of the NRA sample of  
23 identified two incidents in which over 10 rounds were fired, comprising 0.3% of the  
24 defensive incidents - a frequency that Allen characterized as “rare.” This is indeed  
25 rare in absolute terms, but mass shootings in which the use of a LCM conceivably  
26 increased the casualty count are even rarer. Detailed examination of the way mass  
27 shootings actually occur indicates that the number of incidents in which use of  
28 LCMs is likely to have increased the number of victims killed or injured in a typical

1 year may well be zero (Kleck 2016).

2           30. Allen’s second source of information on number of rounds fired in  
3 DGUs shares the same fatal bias as her NRA-selected sample – it is likely to exclude  
4 cases in which many rounds were fired by a defender. The second source was a set  
5 of news-media reported incidents that Allen or her staff identified using an online  
6 search of the Factiva database (Allen 2023, pp. 10-11). For a case to be uncovered  
7 via this method, it would have to be one covered by a news outlet. News outlets,  
8 however, would generally only know about cases known to the police, and DGUs  
9 are only likely to become known to the police if the victim/defender chose to report  
10 the incident to police. These defenders therefore face the same dilemma that NRA  
11 staff selecting cases for the Armed Citizen column faced – DGUs in which large  
12 numbers of rounds are fired are likely to look less legitimate, appearing to involve  
13 excessive use of force by the defender. Defenders who fired over 10 rounds in self-  
14 defense have good reason to anticipate police asking them why they fired so many  
15 rounds, and thus good reason to refrain from reporting the incident to the police. In  
16 sum, Allen’s sample of Factiva-discovered DGUs would tend to omit cases with  
17 many rounds fired, just as the NRA-selected sample did.

18           31. It is nevertheless worth considering the implications, for example, if  
19 just 0.3% of all DGUs really did involve over 10 rounds being fired, as Allen’s  
20 results indicated. National surveys that have specifically asked about DGUs have  
21 consistently indicated that 0.5-3.5 million DGUs occur per year in the U.S., so it  
22 would be reasonable to assume an annual average of around 2 million DGUs (Kleck  
23 2021). At least 21 professionally conducted national surveys have yielded estimates  
24 of the national total of DGUs in this range (Kleck 2021). (Extant criticism of survey  
25 estimates of DGU frequency has been uniformly uninformative due to critics’  
26 exclusively one-sided focus on survey flaws that purportedly make the estimates too  
27 large, while ignoring well-established problems in surveys that have the opposite  
28 effect. More comprehensive consideration of the known flaws and limitations of

1 survey methods indicates that the vast majority of known problems would tend to  
2 make DGU estimates too low [Kleck 2018]).

3 32. If the annual number of all DGUs was indeed 2 million, a 0.3% share  
4 would imply a number of DGU incidents with over 10 rounds fired that was huge in  
5 absolute terms—about 6,000 per year. The share of incidents with over 10 rounds  
6 fired does not have to be very large in order for it to imply a huge absolute number  
7 of such incidents – one that greatly exceeds the number of crimes in which LCM use  
8 increased the harm inflicted on victims. In short, Allen’s own results from the  
9 “Armed Citizen” analysis, taken at face value, imply that there are far more DGUs  
10 each year in which the defender fired over 10 rounds than there are crimes  
11 committed in which LCM use increased the harms inflicted.

12 33. Given current data limitations, no one, including Lucy Allen, really  
13 knows the percent of DGUs by crime victims that involved use of LCMs or the  
14 firing of more than 10 rounds, but the number is almost certain to be far larger than  
15 the number of crimes in which LCM use caused a larger number of victims to be  
16 injured or killed, simply because the latter number is close to zero. Table 1 herein  
17 showed that from 2014 through 2022, there were only 29 mass shootings (4 or more  
18 victims killed) in which an LCM was even used, whether or not its use increased the  
19 casualty count. Thus, there were an average of just 3.2 mass shootings per year  
20 ( $29/9=3.2$ ) in the entire U.S. in which it was even theoretically possible that LCM  
21 use increased the casualty count. The number in which this effect actually occurred,  
22 however, was even lower. Only a single mass shooting with LCM use (the Giffords  
23 incident) *may* have involved bystander intervention due to the shooter’s need to  
24 reload, potentially supporting the theory that the casualty counts in mass shootings  
25 would be lower if shooters denied LCMs would be stopped because they were  
26 tackled by bystanders while they tried to reload.

27 34. In sum, even a tiny number of DGUs requiring an LCM for effective  
28 self-defense would far outnumber criminal uses in which LCM use affected the

1 number of victims killed or injured.

2         35. Allen’s report ignores the implications of differing rates of compliance  
3 between criminals and noncriminal crime victims. By definition, criminals obey  
4 laws at a lower rate than non-criminals, so violation of legal limits on magazine  
5 capacity are likely to occur at a higher rate among criminals than among non-  
6 criminals. Thus, a law like California’s ban on LCMs will reduce possession of  
7 LCMs more among non-criminal victims and prospective victims than among  
8 criminal offenders. That is, a law like this will reduce DGUs by victims who needed  
9 to fire large numbers of rounds to effectively defend themselves more than it will  
10 reduce the number of crimes in which offender use of LCMs caused larger numbers  
11 of victims to be killed or injured.

12         36. Victim DGU is generally effective (Tark and Kleck 2004). That is, it  
13 makes it less likely the victim will be injured or lose property, and it does so to a  
14 greater degree than other methods of victim self-protection. Analyses of data  
15 generated by the U.S. Census Bureau’s National Crime Victimization Survey  
16 (NCVS) indicate that crime victims who use guns for self-protection are less likely  
17 to be injured or lose property than victims who do not (Kleck 1988; Kleck and  
18 DeLone 1993; Southwick 2000; Kleck 2001, Chapter 7; Tark and Kleck 2004).  
19 More specifically, DGU is more effective in preventing serious injury than any other  
20 victim self-protection strategy, among the 16 strategies covered in the NCVS (Tark  
21 and Kleck 2004, pp. 891-894).

22         37. Consequently, a law such as California’s ban on “assault weapons” and  
23 LCMs not only reduces the number of DGUs that required an LCM to be effective,  
24 but also reduces the average effectiveness of victim self-protection by forcing crime  
25 victims who needed LCMs for effective self-protection to substitute some less  
26 effective non-firearms defensive strategy once they expended the ammunition of  
27 their lower-capacity firearm. This would in turn increase the likelihood of the  
28 victims suffering injury or property loss.

1           38.    These facts in combination logically lead to the conclusion that a law  
2 limiting magazine capacity to no more than ten rounds will do more harm than good,  
3 because it will reduce (a) the harm-*preventing* effects of victim DGU more than it  
4 will reduce (b) the extremely rare harm-*causing* effects of offender use of LCMs.

5           39.    This conclusion is also supported by actual experience with the federal  
6 ban on LCMs (defined as holding over 10 rounds) that was in effect nationwide from  
7 1994 to 2004. A U.S. Department of Justice-funded evaluation found that there was  
8 “no discernible reduction in the lethality or injuriousness of gun violence during” the  
9 period when the ban was in effect (Koper 2013, p. 165; see also Koper 2004, p. 96).

10 ***Allen Cannot Know if Use of AWs or LCMs Causes Higher Casualty Counts***

11           40.    Allen accurately notes that casualty counts tend to be higher in  
12 incidents in which AWs or LCMs are used by the offenders. In the absence of any  
13 caveats, this is likely to suggest to unwary readers that AW/LCM use caused the  
14 higher number of victims hurt. Certainly, Allen’s discussion (pp. 24-28) leaves that  
15 impression, even though she does not explicitly assert a causal effect. The problem  
16 is that one would expect higher casualty counts in incidents with AW or LCM use  
17 even if use of such weapons had no actual causal effect of its own. Offenders more  
18 intent on hurting many people would be more likely to do so (lethal intentions cause  
19 lethal outcomes) but are also more likely to use weaponry they believe – correctly or  
20 not – will help them achieve this goal (lethal intentions cause use of purportedly  
21 more lethal weaponry. Unless the analyst controls for offender lethality, it is  
22 impossible to establish that the association between AW/LCM use and casualty  
23 counts is anything other than a spurious, noncausal correlation. Allen did not do  
24 this, and thus has no basis for ruling out the possibility that there is no causal effect.

25           41.    Details about how mass shootings occur support the proposition that  
26 LCM use has no causal effect of its own, since there is no known mechanism by  
27 which such a causal effect could operate that is supported by information on how  
28 mass shootings occur. Allen herself offered no explanation of how or why use of

1 LCMs cause higher casualty counts. She just presented the crude bivariate  
2 association between the two and let readers “draw their own conclusions.”

3 42. Some advocates of LCM bans, on the other hand have offered theories  
4 of how LCM use could affect casualty counts (Kleck 2016). They have proposed  
5 two potential mechanisms by which a causal effect could occur. First, they argue  
6 that because use of LCMs allows shooters to fire many rounds before they have to  
7 reload, this means that there are fewer opportunities for bystanders to tackle a  
8 shooter who was using a gun equipped with a LCM. Conversely, if an LCM ban  
9 like California’s actually blocked a would-be mass shooter from obtaining an LCM  
10 and he had to attack without one, bystanders would have more chances to tackle the  
11 shooter, and might do so earlier because the shooter would have to reload earlier.  
12 This proposed mechanism is plausible only to the extent that mass shootings are  
13 actually stopped by bystanders tackling the shooter while he is reloading.

14 Unfortunately, this virtually never happens in U.S. mass shootings. In the past 25  
15 years, there are no mass shootings in which bystanders clearly tackled the shooter  
16 while he was reloading, as distinct from struggling to clear a jammed gun, plus a  
17 single ambiguous case where it is possible this happened (Kleck 2016).

18 43. The second causal mechanism proposed by advocates of LCM bans  
19 also involves pauses to reloads, but is supposed to be due to the time it takes to  
20 reload. Advocates argue that additional potential victims could escape or hide due to  
21 the time the shooter devotes to reloading. Any harm prevention due to this  
22 mechanism is thus a function of how long a reload takes and how much additional  
23 time becomes available for victim evasive action, above and beyond what would  
24 otherwise be available. Virtually all mass shootings involve pauses in firing, when  
25 victims might take evasive action, even when the shooter is not reloading. The  
26 relevant question is whether reloading creates *additional time*, beyond pauses not  
27 due to reloading, which is sufficient for prospective victims to (a) realize that the  
28 shooter is reloading, (b) appreciate that this means it is relatively safer to take

1 evasive action, and (c) then escape or hide.

2 44. Unfortunately, changing a detachable magazine of the type used with  
3 semi-automatic firearms takes only 3-4 seconds (Kleck 2019), too brief a span for  
4 these things to happen (Kleck 2016). A 3-4 second reload does not even slightly  
5 slow shooters from the pace of shooting that mass shooters usually maintain. They  
6 typically take well over 4 seconds between rounds even when not reloading, so a 3-  
7 4-second reload would not extend the take available for victim evasive action,  
8 beyond what would have been available anyway in the absence of reloading. Kleck  
9 (2016) identified 25 mass shootings in which it was possible to determine the  
10 shooter's rate of fire and found that only six averaged under 4 seconds per shot,  
11 usually only slightly under. It is unlikely that prospective victims would even be  
12 able to perceive a slowing of the rate of fire from, say, 2 seconds between shots to 4  
13 seconds between shots while the shooter reloaded.

14 45. Advocates of LCM bans have, to my knowledge, only cited a single  
15 mass shooting in which they assert that additional victims escaped or hid while the  
16 shooter reloaded, and that citation turns out to be erroneous. The December 14,  
17 2012 Sandy Hook elementary school shooting involved a pause during which  
18 several students escaped, and an early report in the Hartford Courant cited an  
19 unnamed police officer who speculated that these escapes occurred while the shooter  
20 was reloading. A later article from the same newspaper (Hartford Courant 4-10-13),  
21 however, revised this and reported that the shooter paused "either because the  
22 Bushmaster jammed or he made an error reloading it." Thus, even in this single  
23 supposedly supportive case, it is unclear whether additional victims escaped due to  
24 the shooter reloading.

25 46. In sum, few mass shooters use LCMs, and in the few LCM-involved  
26 mass shootings (which occurred only 3.2 times per year in the entire U.S. in 20140-  
27 2022 – see Table 1) there is no affirmative evidence that any casualties were  
28 prevented because of shooters reloading.

1 **Response to Klarevas Supplemental Expert Report**

2 47. Louis Klarevas addresses the violence-related effects of “assault  
3 weapons” (AWs) as well as the effects of LCM use. He is not nearly as cautious as  
4 Lucy Allen in making unsupportable claims about the causal effect of LCM or AW  
5 use in violence, or the effect of LCM bans on the frequency and deadliness of mass  
6 shootings. He also makes extraordinary claims about the magnitude of the effect of  
7 mass shootings on the safety of Americans.

8 *Mass Shootings Do Not Constitute the Most Serious Threat to the Safety of*  
9 *Americans*

10 48. Klarevas makes the remarkable claim (p. 5) that “mass shootings  
11 presently pose the deadliest threat to the safety of American society in the post 9/11  
12 era.” His own data indicate otherwise. He documented 113 “gun massacres” (which  
13 he defines as incidents involving 6 or more dead), in which 1,009 people were  
14 killed, over the period from 1968 through September 2017. This is a period of 49  
15 and  $\frac{3}{4}$  years, so his own figures imply that an average of 20.3 Americans have been  
16 killed in “gun massacres” per year ( $1009/49.75=20.28$ ). To put this number in  
17 perspective, 17,250 Americans were killed in criminal homicides of all types in 2016  
18 (FBI 2017). Thus, only 1/10th of 1% of all murder victims are killed in “gun  
19 massacres.”

20 49. Alternatively, we can state the seriousness of the threat to the safety of  
21 American by computing the fraction who will be killed in a “gun massacre” in a  
22 given year. Since there were about 323,127,513 Americans in 2016, the annual  
23 average of 20.3 deaths implies that the probability of an American dying in a “gun  
24 massacre” is about 0.000000063, or 0.0063 per 100,000 population—about 1 in 15.9  
25 million. As a point of comparison, defense expert Lucy Allen calculated (for an  
26 expert report in a previous case) that the risk of Americans dying because they were  
27 struck by lightning is 0.09 per 100,000 population (Allen 2017, p. 16). Thus, the risk  
28 of an American being killed in a “gun massacre” is less than 1/14th of the risk of

1 being killed by a bolt of lightning—itself a freakishly rare event. However horrific  
2 individual mass shootings may be, it is absurd to describe their threat to the safety of  
3 Americans as “the greatest threat ... to the ... safety of American society in the  
4 present era.” This sort of overheated rhetoric is appropriate to propagandists, not to  
5 serious scholars.

6 ***Mass Shootings are not a Growing Threat to Americans’ Safety***

7         50. Klarevas claims that the level of threat from mass shootings is growing  
8 (p. 6). There actually is no clear trend in recent years in the frequency of mass  
9 shootings. Table 1 in this report shows that the national total of mass shootings (4 or  
10 more victims killed) increased from 2014 to 2016, but decreased from 2016 to 2018.  
11 It then increased from 2018 to 2019, but declined from 2019 to 2020, followed by an  
12 increase from 2020 to 2022. It would be foolhardy to describe this up-and-down  
13 pattern as reflecting any clear upward trend. Indeed it shows no meaningful trend of  
14 any kind.

15         51. Klarevas, however, creates an appearance of an upward trend by  
16 narrowing his focus to just a tiny subset of mass shootings – cases in which 10 or  
17 more victims were killed. There was indeed an upward trend in this subset, but the  
18 numbers involved are so small that any statements about trends are trivial and not  
19 indicative of any increase in the aggregate level of threat to Americans’ safety. His  
20 Table 5 documents just 538 deaths over a period of 74 years, averaging just 7.3  
21 deaths in “double-digit” mass shootings per year.

22         52. Even regarding this tiny subset of killings, Klarevas’ claim of an  
23 upward trend is dubious regarding recent years, since it is almost entirely due to a  
24 brief increase from one such killing in 2016 to four in 2018. Since 2018 his own  
25 data show either no trend or a downward trend, from 4 in 2018 to 1 in 2019, 0 in  
26 2020, 1 in 2021, and 2 in 2022. Making claims about trends in events this rare is,  
27 however, foolhardy regardless of the numbers. One could, with equal validity, claim  
28 that double-digit mass shootings declined by 50% from the 4 in 2018 to the 2 in

1 2022, but this would be no more meaningful than Klarevas’ claims of an upward  
2 trend.

3 ***How Often AWs Are Used to Stop Mass Shootings is Irrelevant to the Debate***  
4 ***about the Merits of Restrictions on AWs***

5 53. Klarevas believes that it is an “important” unanswered question how  
6 often AWs are used to stop a mass shooting (p. 21). Prior to reading Klarevas’  
7 expert report I had never heard of any expert on firearms and violence who  
8 considered this an important issue. Certainly Klarevas does not cite any. This may  
9 well be why no one has answered the question – no one thought it was worth  
10 answering. To be sure, the issue of people using guns *in general* to disrupt crimes *in*  
11 *general* is certainly an important question, but whether AWs in particular are used to  
12 disrupt the tiny share of crimes that are mass shootings in particular is not. The  
13 numbers of mass shootings in which AWs are used, by either offenders or victims,  
14 are just too small for the issue to be important. Many Americans use guns to prevent  
15 injury in ordinary violent crimes, so this is where the benefit of defensive gun use  
16 lies, not in connection with mass shootings. A focus on the latter is simply a red  
17 herring that serves to distract from where the actual defensive benefit lies.

18 ***Use of Assault Weapons is Not Known to Be a Major Causal Factor in the***  
19 ***Supposed Increase in Mass Shootings***

20 54. Klarevas claims (pp. 12-16) that the growing use of AWs is a major  
21 factor in the supposed increase in mass shootings, especially “high fatality” mass  
22 shootings. His only evidence for this claim, however, is the increasing share of mass  
23 shootings that involve AWs and the ambiguous fact that death counts are higher in  
24 AW-involved shootings. As to the former, Klarevas presents no relevant evidence  
25 that increased AW use by mass shooters is any greater than one would expect based  
26 on the increasing popularity of semi-automatic firearms (some that would qualify as  
27 AWs under California law) in the general, noncriminal population (more on this  
28 point later). Thus, he provides no basis for an assertion of a greater preference for

1 using AWs among mass shooters than among noncriminal gun owners.

2       55. This is not to say he did not *try* to support this claim. His p. 12  
3 discussion purports to be a comparison of mass shooter use of AWs with the  
4 prevalence of AWs in the population as a whole. Unfortunately, none of the sources  
5 he cites allow one to establish the latter. Given the way that California and other  
6 states define AWs, to establish numbers of guns that are AWs one would need data  
7 on numbers of guns by specific makes and models, as well as even more specific  
8 data on numbers of guns with features that can (in combination with other attributes)  
9 qualify a semi-automatic firearm for status as an AW, such as foldable stocks, flash  
10 suppressors, thumb-holes in the stocks, and so on. No such data exist, either for  
11 California or the U.S. as a whole. No such data are contained in any of the sources  
12 cited by Klarevas, including the data from the National Shooting Sports Foundation  
13 and from the Bureau of Alcohol, Tobacco, Firearms, and Explosives cited in his fn.  
14 6. Consequently, Klarevas has no evidentiary foundation for any claims about the  
15 prevalence or trends in the general population’s ownership of AWs as defined under  
16 California law, and consequently no foundation for a claim that use of AWs by mass  
17 shooters were any more common than one would expect based on the popularity of  
18 semi-automatic firearms by members of the general public.

19       56. Klarevas’ claims on this point rely on tricky apples-and-oranges  
20 comparisons. Regarding mass shooter use of AWs, he applies his definition of AWs  
21 that apparently corresponds to the definition specified in California statutes. In  
22 sharp contrast, when he cites data on “all firearms in circulation in American  
23 society” (p. 12), he shifts to numbers of “modern sporting rifles” (MSRs), a set of  
24 firearms that does not correspond to the set of AWs at all. Establishing that the  
25 share of mass shooter guns that are AWs is greater than the share of general public  
26 guns that are MSRs would not in any way establish that a disproportionately large  
27 share of mass shooter guns are AWs.

28       57. Defense expert Lucy Allen’s own data (Allen 2023, Exhibit C) indicate

1 that mass shooters usually use semi-automatic *pistols* rather than rifles, while  
2 Klarevas' claims about the supposed relative rarity of AWs in the general population  
3 actually apply only to *rifles*, and a subset of rifles at that. None of his figures  
4 compare the prevalence of semi-auto *pistols* in the general public with the  
5 prevalence of semi-auto *pistols* among mass shooter guns. The comparisons he  
6 does make are meaningless apples-and-oranges comparisons that do not establish a  
7 disproportionate preference of mass shooters for using AWs.

8       58. Klarevas also suggests that the rise in mass shooter use of AWs  
9 corresponds in time to the growing popularity of AWs or similar semi-automatic  
10 firearms (pp. 17-20). This is false. While we have no reliable data on trends in  
11 production or ownership of AWs in particular, we do know that the growth in  
12 popularity of semi-automatic firearms as a whole began long before the increase in  
13 double-digit mass shootings that Klarevas cites, certainly long before the post-1993  
14 increases. Industry data indicate that in 1978 just 25% of handguns produced by  
15 U.S. manufacturers were semi-automatic pistols, but that by 1993 this share had  
16 risen to 80%. After 1993 there was no further increase in the relative popularity of  
17 semi-automatic pistols. Their share of the total handguns manufactured remained  
18 around 80% thereafter – 75% in 2000, 75% in 2005, 80% in 2010, and 80% in 2015  
19 (Kleck 1997, p. 118; BATFE 2020, Exhibit 1). In sum the rising popularity of  
20 semi-auto firearms began way back in the 1970s and had ended by 1993. In  
21 contrast, Klarevas' Table 5 indicates that in the 31-year period from 1976 through  
22 2006, there just 7 double-digit mass shootings, or 0.23 per year, but that this rose to  
23 20 such incidents in the 17-year period from 2007 through 2022, or 1.18 per year. In  
24 short, the rise in double-digit mass shootings did not occur until after 2007, long  
25 after the increase in popularity of semi-auto firearms had ended. Klarevas'  
26 suggested assertion that the rise in double-digit mass shootings corresponded in time  
27 to the rising popularity or availability of semi-auto guns is wrong.

28 ///

1 ***Klarevas Does Not establish that the Use of AWs Causes an Increase in the***  
2 ***Casualty Counts of Mass Shootings.***

3 59. Klarevas accurately notes the higher casualty counts in mass shootings  
4 committed with AWs, but presents no other evidence that AW use actually *causes*  
5 the higher casualty counts. He leaves the impression that merely citing this crude  
6 bivariate association is sufficient to establish a causal effect. It is not. This does not  
7 meet professional or scientific standards for establishing a causal effect. As with  
8 Lucy Allen’s work on the same topic, the association he reports may be entirely due  
9 to the common effect of the lethality of offender intentions on both the number of  
10 people the offender shoots and the choice of using a gun type or magazine perceived  
11 (accurately or not) to be especially useful for hurting large numbers of people.

12 60. There is in fact no sound scientific basis for the claim that there are  
13 features AWs that actually cause more deaths in mass shootings – or any other kinds  
14 of violence. More specifically, (1) Klarevas provides no evidence that AWs are  
15 more accurate than other kinds of guns and thus more likely to deliver bullets to an  
16 intended victim (nor am I aware of any such evidence). (2) Klarevas provides no  
17 evidence that an average round fired from an AW is more likely to inflict a fatal  
18 wound than a round fired from other guns (nor am I aware of any such evidence). In  
19 fact, the most common ammunition used in so-called “assault rifles” are .223 caliber  
20 and .556 millimeter rounds – both very narrow bullets that create correspondingly  
21 narrow wound cavities in the victim. Consequently, such rounds are *less* likely to  
22 cause the victim’s death than the ammunition used in civilian-style hunting rifles.  
23 Likewise, (3) Klarevas provides no evidence that a shooter can fire an AW any faster  
24 than semiauto firearms not banned under AW restrictions like those of California  
25 (nor am I aware of any such evidence). In sum, there is no credible evidence that the  
26 kinds of firearms banned by California as AWs are any more accurate, lethal, or  
27 rapid-firing than their unbanned semi-automatic counterparts (see evidence reviewed  
28 in Kleck 1997, pp. 121-126).

1           61. In the absence of such evidence of any causal mechanism by which AW  
2 use could affect the death count in attacks, there is no scientific basis for Klarevas’  
3 claims that use of AWs *causes* higher death counts in mass shootings, as distinct  
4 from being nothing more than a spurious correlate.

5           ***Klarevas’ Research Does not Provide Any Serious Evidence that Bans on LCMs***  
6           ***Reduce the Incidence of Mass Shootings***

7           62. Klarevas cites an article that he co-authored (Klarevas, Connor, and  
8 Hemenway 2019) that concerned the effect of LCM bans on the “frequency and  
9 lethality of high-fatality mass shootings in the United States.” Unlike Lucy Allen,  
10 Klarevas makes explicit and strong claims that his research estimated the *causal*  
11 *effect* of LCM bans, rather than just establishing a possibly spurious association.  
12 The cited study does not come anywhere near meeting the scientific standards  
13 needed to establish causation.

14           63. The main task that a person conducting nonexperimental research must  
15 carry out in order to estimate a causal effect is to somehow control for confounding  
16 variables – other factors whose effects might be confused with the effect of the  
17 variable on which the researcher is focusing. In this case, confounding variables  
18 would be antecedent variables that possess both of two properties: (1) they affect the  
19 frequency or lethality of high-fatality mass shootings, and (2) they are correlated  
20 with the presence/absence of laws banning LCMs. The authors of this article plainly  
21 made no serious effort to control for confounding variables and thus had no basis for  
22 interpreting their association between LCM bans and the frequency of mass  
23 shootings as anything but spurious. The association is spurious if there are  
24 antecedent factors that affect both (1) legislators enacting LCM bans and (2) the rate  
25 of mass shootings. One likely antecedent factor is the average level of disapproval  
26 of violence in the population – where it is higher there will be more support for anti-  
27 violence legislation (such as LCM bans) and also less violence (such as mass  
28 shootings). Klarevas et al. appear to believe that controlling for any old variables is

1 sufficient to separate out the effect of LCM bans from other factors, boasting that  
2 they controlled for “10 independent variables” (p. 1754). At no point do the authors  
3 show any awareness of the need to control specifically for confounders, or even  
4 understand what a confounder is. The word does not appear in the article and the  
5 concept is not discussed. In fact, controlling for variables that are not confounders  
6 does absolutely nothing to help isolate the causal effect of LCM bans or to rule out  
7 the possibility that the association is totally spurious. None of the 10 independent  
8 variables controlled by Klarevas et al. were confounders.

9         64. We know for certain that Klarevas et al. completely failed to control for  
10 any confounding factors because their own results reported in their Tables 3 and 4  
11 indicate that none of their control variables were significantly related to either the  
12 number of high-fatality MS incidents or the number of MS fatalities, with the single  
13 dubious exception of % age 25-34 in one of their 4 models. This single result is  
14 dubious because it indicated that this variable had a negative association with the  
15 number of mass shootings, indicating that places with more people of the ages  
16 typical of mass shooters have *fewer* mass shootings. All the other control variables  
17 showed no statistically significant association with either the number of incidents or  
18 number of deaths and thus were not confounders. Even regarding this one  
19 significant control variable, however, the authors do not present any evidence that %  
20 age 25-34 is correlated with the presence or absence of LCM bans, so there is no  
21 evidence that it possessed the second property needed to qualify as a confounder.  
22 Thus, the authors did not control for even a single known confounder. They could  
23 scarcely have done a poorer job in controlling for known confounders, but this did  
24 not prevent Klarevas from boasting about the quality of his work by citing (p. 3 of  
25 his report) the opinion of two amateurs that it was “the perfect gun policy study.”

26         65. The only rationale the authors offered for their disastrously poor  
27 selection of control variables was that their list was “consistent with the suggestions  
28 and practices of the literature on firearm homicides and mass shootings,” citing in

1 support a haphazard selection of poor quality prior studies that also used one or more  
2 of the same badly chosen control variables (p. 12). They did not even bother to  
3 claim that any of these variables significantly affected rates of MS or MS-related  
4 deaths, or that they were known to be correlated with the presence of LCM bans.  
5 They seemed to think that it is sufficient reason to include them in their analysis that  
6 others had done so..

7         66. The authors insisted that “LCMs are indeed more effective at killing  
8 many people” because LCMs “facilitate the ability to fire many rounds without  
9 having to stop to reload” (p. 1759), even though had read the Kleck (2016) article  
10 (see their source 29), which demonstrated precisely the opposite - that the necessity  
11 of reloading does *not* lead to either bystanders tackling the shooter during reloading  
12 or increasing the time for prospective victims to hide or escape. The authors did not  
13 refute any of the evidence presented in that article or even try to do so, but  
14 nevertheless insisted that pauses to reload “provide opportunities for people to  
15 intervene and disrupt a shooting” and that “they provide individuals in harm’s way  
16 with a chance to flee or hide” (pp. 1754-1755). They simply ignored the contrary  
17 evidence and clung to their preferred belief that the need to reload results in  
18 bystander disruptions of shooters and increased time for victims to escape or hide.

19         67. Klarevas tried to buttress his claim that LCM bans reduce mass  
20 shootings by noting that the frequency of these shootings increased after the federal  
21 ban on LCMs (and AWs) expired in 2004. Changes in virtually any violence-related  
22 factor might have accounted for this increase, but Klarevas chose to arbitrarily  
23 attribute it to the end of the LCM ban. This is highly implausible in light of the  
24 results of detailed research on the impact of this law on violence while it was in  
25 effect. The most extensive and detailed analysis done to date was conducted by  
26 Christopher Koper (2004). That study concluded (p. 165) that there was “no  
27 discernable reduction in the lethality or injuriousness of gun violence” while the ban  
28 was in effect. If the ban had no impact on violence while it was in effect, it is

1 illogical to assert that its removal would cause an increase in violence.

2 ***Klarevas Did Not Provide Any Reliable Evidence that Double-digit Mass***  
3 ***Shootings are Limited to the Post-WWII Period***

4 68. Klarevas asserted (p. 17) that mass shootings with high fatality counts  
5 are unique in American history to the post-WWII period, a pattern he attributes to  
6 the growing availability of AWs and LCMs. He even believes that he used a sound  
7 body of evidence to establish trends in such killings going back as far as 1776.  
8 There is no such source of evidence. Klarevas did not count up the number of such  
9 crimes tha occurred each year, but rather counted up the number of such crimes in  
10 each year that *were reported in newspaper stories* about such crimes, as recorded in  
11 an archive of newspaper stories. The problem with this source is that the number of  
12 newspaper stories about mass shooters would increase as newspaper coverage of the  
13 nation’s events increased, even if the number of mass shootings remained constant.  
14 The coverage of newspapers certainly did increase over most of U.S. history,  
15 especially prior to WWII. Thus, Klarevas’ source can tell us nothing about trends in  
16 mass killings during most of U.S. history, especially the 1776-1941 period, and  
17 therefore cannot be relied upon for comparing post-WWII periods with pre-WWII  
18 periods.

19 69. Klarevas claimed that mass shootings were nonexistent prior to WWII  
20 but rendered this claim trivial by the way he limited which mass shootings qualified  
21 to be counted. Buried in his footnote 17, Klarevas states that he did not count  
22 killings of large numbers of victims if they were connected with “large-scale, inter-  
23 group violence such as mob violence, rioting, combat or battle skirmishes, and  
24 attacks initiated by authorities acting in their official capacity.” This limitation  
25 conveniently eliminates mass killings of Native Americans by members of the U.S.  
26 cavalry (combat violence), employer-initiated violence by state militias against  
27 strikers (violence initiated by authorities acting in their official capacity), and white  
28 mob violence aimed at African Americans such as the 1863 draft riots in New York

1 City, among other mass killings. The exclusions thereby create the false impression  
2 that there were no mass shootings prior to WWII. Klarevas offers no justification  
3 for these exclusions other than the fact that other, unspecified, analyses also applied  
4 them (footnote 17, p. 17). Consequently, Klarevas' claim amounts to saying "there  
5 were no mass shootings in the U.S. prior to WWII, except the many mass shootings  
6 that did occur prior to WWII." The historical reality is that there were many mass  
7 shootings in the U.S. long before either AWs or LCMs were available (for historical  
8 overviews, see Graham and Gurr 1969).

9  
10 I declare under penalty of perjury that the foregoing is true and correct.

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

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Gary Kleck

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6 nant of death from assault." Journal of Legal Studies 1:97-123.

# **EXHIBIT 1**

## CURRICULUM VITAE

GARY KLECK

(Updated December 2, 2022)

### PERSONAL

Place of Birth: Lombard, Illinois

Date of Birth: March 2, 1951

Address: College of Criminology and Criminal Justice

The Florida State University  
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### CURRENT POSITION

David J. Bordua Emeritus Professor of Criminology, Florida State University

### COURTESY APPOINTMENT

Professor, College of Law, Florida State University

### PROFESSIONAL MEMBERSHIPS

American Society of Criminology

Academy of Criminal Justice Sciences

## EDUCATION

A.B. 1973 - University of Illinois, with High Honors and with Distinction  
in Sociology

A.M. 1975 - University of Illinois at Urbana, in Sociology

Ph.D. 1979 - University of Illinois at Urbana, in Sociology

## ACADEMIC HONORS

National Merit Scholar, 1969

Freshman James Scholar, University of Illinois, 1969

Graduated from University of Illinois with High Honors and with Distinction in  
Sociology, 1973

University of Illinois Foundation Fellowship in Sociology, 1975-76

1993 Winner of the Michael J. Hindelang Award of the American Society of  
Criminology, for the book that made "the most outstanding contribution to  
criminology" (for Point Blank: Guns and Violence in America).

Awarded Named Professorship, Florida State University, 2012.

Nominated for University Teaching Award, Florida State University, 2014.

## TEACHING POSITIONS

May 2016 to present Emeritus Professor, College of Criminology and Criminal  
Justice, Florida State University

Fall, 1991 to Professor, College of Criminology and Criminal Justice,  
May 2016 Florida State University

Fall, 1984 to Spring, 1991 Associate Professor, School of Criminology,  
Florida State University.

Fall, 1979 to Spring, 1984 Assistant Professor, School of Criminology,  
Florida State University.

Fall, 1978 to Spring, 1979 Instructor, School of Criminology,  
Florida State University.

#### COURSES TAUGHT

Criminology, Applied Statistics, Regression, Introduction to Research Methods, Law Enforcement, Research Methods in Criminology, Guns and Violence, Violence Theory  
Seminar, Crime Control, Assessing Evidence, Survey Research, Research Design and Causal Inference.

#### DISSERTATION

Homicide, Capital Punishment, and Gun Ownership: An Aggregate Analysis of U.S. Homicide Trends from 1947 to 1976. Department of Sociology, University of Illinois, Urbana. 1979.

#### PUBLICATIONS (sole author unless otherwise noted)

## BOOKS

1991, Point Blank: Guns and Violence in America. Hawthorne, N.Y.: Aldine de

2005 Gruyter. Winner of the 1993 Michael J. Hindelang award of the American Society of Criminology. Republished in 2005 in paperback by Transaction Publishers.

Reviewed in Contemporary Sociology, American Journal of Sociology, Social Forces, Journal of Criminal Law and Criminology, The Criminologist, The Public Interest, Criminal Law Forum, Social Science Review, Criminal Justice Abstracts, Crime, Criminal Justice and Law Enforcement, Newsletter of Public Policy Currents, Commonweal, Choice, and others.

1997 Targeting Guns: Firearms and their Control. Hawthorne, N.Y.: Aldine de Gruyter.

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#### RESEARCH MONOGRAPH

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#### ARTICLES IN PEER-REVIEWED JOURNALS

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control." Law and Policy Quarterly 5(3):271-298.

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and Public Policy 21:65-93.

- 2011 "Mass killings aren't the real gun problem --- how to tailor gun-control measures to common crimes, not aberrant catastrophes." Wall Street Journal, January 15, 2011. Invited opinion article.
- 2011 "The myth of big-time gun trafficking." Wall Street Journal May 21, 2011. Invited opinion article.
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- 1984 "The relationship between gun ownership levels and rates of violence in the

- U.S." Pp. 99-135 in Kates, above.
- 1984 "Handgun-only gun control: a policy disaster in the making." Pp. 167-199 in Kates, above.
- 1996 "Racial discrimination in criminal sentencing." Pp. 339-344 in Crime and Society, Volume III – Readings: Criminal Justice, edited by George Bridges, Robert D. Crutchfield, and Joseph G. Weis. Thousand Oaks, Calif.: Pine Forge Press.
- 1996 "Gun buy-back programs: nothing succeeds like failure." Pp. 29-53 in Under Fire: Gun Buy-Backs, Exchanges and Amnesty Programs, edited by Martha R. Plotkin. Washington, D.C.: Police Executive Research Forum.
- 2000 "Firearms and crime." Pp. 230-234 in the Encyclopedia of Criminology and Deviant Behavior, edited by Clifton D. Bryant. Philadelphia: Taylor & Francis, Inc.
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- 2008 “Gun control.” Article in The Encyclopedia of Social Problems, edited by Vincent N. Parrillo. Thousand Oaks, CA: Sage.
- 2009 “Guns and crime.” Invited chapter. Pp. 85-92 in 21<sup>st</sup> Century Criminology: A Reference Handbook, edited by J. Mitchell Miller. Thousand Oaks, CA: Sage.
- 2012 Kovandzic, Tomislav, Mark E. Schaffer, and Gary Kleck. “Gun prevalence, homicide rates and causality: A GMM approach to endogeneity bias.” Chapter 6, pp. 76-92 in The Sage Handbook of Criminological Research Methods, edited by David Gadd, Susanne Karstedt, and Steven F. Messner. Thousand Oaks, CA: Sage.
- 2012 (with Kelly Roberts) “What survey modes are most effective in eliciting self-reports of criminal or delinquent behavior?” Pp. 415-439 in Handbook of Survey Methodology, edited by Lior Gideon. NY: Springer.
- 2013 “An overview of gun control policy in the United States.” Pp. 562-579 in The

Criminal Justice System, 10<sup>th</sup> edition, Edited by George F. Cole and Marc G. Gertz. Wadsworth.

2014 “Deterrence: actual vs. perceived risk of punishment. Article in Encyclopedia of Criminology and Criminal Justice. Berlin: Springer Verlag.

#### BOOK REVIEWS

1978 Review of Murder in Space City: A Cultural Analysis of Houston Homicide Patterns, by Henry Lundsgaarde. Contemporary Sociology 7:291-293.

1984 Review of Under the Gun, by James Wright et al. Contemporary Sociology 13:294-296.

1984 Review of Social Control, ed. by Jack Gibbs. Social Forces 63: 579-581.

1985 Review of Armed and Considered Dangerous, by James Wright and Peter Rossi,  
Social Forces 66:1139-1140.

1988 Review of The Citizen's Guide to Gun Control, by Franklin Zimring and Gordon  
Hawkins, Contemporary Sociology 17:363-364.

1989 Review of Sociological Justice, by Donald Black, Contemporary Sociology 19:261-3.

1991 Review of Equal Justice and the Death Penalty, by David C. Baldus, George G. Woodworth, and Charles A. Pulaski, Jr. Contemporary Sociology 20:598-9.

- 1999 Review of Crime is Not the Problem, by Franklin E. Zimring and Gordon Hawkins. American Journal of Sociology 104(5):1543-1544.
- 2001 Review of Gun Violence: the Real Costs, by Philip J. Cook and Jens Ludwig. Criminal Law Bulletin 37(5):544-547.
- 2010 Review of Homicide and Gun Control: The Brady Handgun Violence Prevention Act and Homicide Rates, by J. D. Monroe. Criminal Justice Review 35(1):118-120.

#### LETTERS PUBLISHED IN SCHOLARLY JOURNALS

- 1987 "Accidental firearm fatalities." American Journal of Public Health 77:513.
- 1992 "Suicide in the home in relation to gun ownership." The New England Journal of Medicine 327:1878.
- 1993 "Gun ownership and crime." Canadian Medical Association Journal 149:1773-1774.
- 1999 "Risks and benefits of gun ownership." Journal of the American Medical Association 282:136.
- 2000 (with Thomas Marvell) "Impact of the Brady Act on homicide and suicide rates." Journal of the American Medical Association 284:2718-2719.
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<http://ip.bmjournals.com/cgi/eletters/8/3/252>.

2005 "Firearms, violence, and self-protection." Science 309:1674. September 9, 2005.

#### UNPUBLISHED REPORT

1987 Violence, Fear, and Guns at Florida State University: A Report to the President's

Committee on Student Safety and Welfare. Reports results of campus crime victimization survey and review of campus police statistics on gun violence (32 pages).

#### RESEARCH FUNDING

1994 "The Impact of Drug Enforcement on Urban Drug Use Levels and Crime Rates."

\$9,500 awarded by the U.S. Sentencing Commission.

1997 "Testing a Fundamental Assumption of Deterrence-Based Crime Control Policy."

\$80,590 awarded by the Charles E. Culpeper Foundation to study the link between actual and perceived punishment levels.

#### PRESENTED PAPERS

- 1976 "Firearms, homicide, and the death penalty: a simultaneous equations analysis."  
Presented at the annual meetings of the Illinois Sociological Association, Chicago.
- 1979 "The assumptions of gun control." Presented at the Annual Meetings of the American Sociological Association, New York City.
- 1980 "Handgun-only gun control: A policy disaster in the making." Presented at the Annual Meetings of the American Society of Criminology, Washington, D.C.
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- 1984 "Policy lessons from recent gun control research." Presented at the Duke University Law School Conference on Gun Control.
- 1985 "Policy lessons from recent gun control research." Presented at the Annual Meetings of the American Society of Criminology, San Diego.
- 1986 "Miscounting suicides." Presented at the Annual Meetings of the American Sociological Association, Chicago.
- 1987 (with Theodore G. Chiricos, Michael Hays, and Laura Myers) "Unemployment and crime: a comparison of motivation and opportunity effects." Annual

meetings of the American Society of Criminology, Montreal.

1988 "Suicide, guns and gun control." Presented at the Annual Meetings of the Popular Culture Association, New Orleans.

1988 (with Susan Sayles) "Rape and resistance." Presented at the Annual Meetings of the American Society of Criminology, Chicago, Ill.

1989 (with Karen McElrath) "The impact of weaponry on human violence." Presented at the Annual Meetings of the American Sociological Association, San Francisco.

1990 (with Britt Patterson) "The impact of gun control and gun ownership levels on city violence rates." Presented at the Annual Meetings of the American Society of Criminology, Reno.

1991 "Guns and violence: a summary of the field." Presented at the Annual Meetings of the American Political Science Association, Washington, D.C.

1992 "Interrupted time series designs: time for a re-evaluation." Presented at the Annual Meetings of the American Society of Criminology, New Orleans.

1993 (with Chester Britt III and David J. Bordua) "The emperor has no clothes: Using interrupted time series designs to evaluate social policy impact."

Presented at the Annual Meetings of the American Society of Criminology,  
Phoenix.

- 1993 "Crime, culture conflict and support for gun laws: a multi-level application of the  
the  
General Social Surveys." Presented at the Annual Meetings of the American  
an Society of  
Criminology, Phoenix.
- 1994 (with Marc Gertz) "Armed resistance to crime: the prevalence and nature of  
self-defense with a gun." Presented at the Annual Meetings of the American  
Society of Criminology, Miami.
- 1995 (with Tom Jordan) "The impact of drug enforcement and penalty levels on  
urban drug use levels and crime rates." Presented at the Annual Meetings of  
the American Society of Criminology, Boston.
- 1996 (with Michael Hogan) "A national case-control study of homicide offending  
and gun ownership." Presented at the Annual Meetings of the American  
Society of Criminology, Chicago.
- 1997 "Evaluating the Brady Act and increasing the utility of BATF tracing data."  
Presented at the annual meetings of the Homicide Research Working Group,  
Shepherdstown, West Virginia.
- 1997 "Crime, collective security, and gun ownership: a multi-level application of the  
General Social Surveys." Presented at the Annual Meetings of the American

Society of Criminology, San Diego.

- 1998 (with Brion Sever and Marc Gertz) "Testing a fundamental assumption of deterrence-based crime control policy." Presented at the Annual Meetings of the American Society of Criminology, Washington, D.C.
- 1998 "Measuring macro-level gun ownership levels." Presented at the Annual Meetings of the American Society of Criminology, Washington, D.C.
- 1999 "Can owning a gun really triple the owner's chances of being murdered?" Presented at the Annual Meetings of the American Society of Criminology, Toronto.
- 2000 "Absolutist politics in a moderate package: prohibitionist intentions of the gun control movement." Presented at the Annual Meetings of the American Society of Criminology, San Francisco.
- 2001 (with Tomislav V. Kovandzic) "The impact of gun laws and gun levels on crime rates." Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2001 "Measures of gun ownership levels for macro-level violence research." Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2001 "The effects of gun ownership levels and gun control laws on urban crime rates." Presented at the Annual Meetings of the American Society of Criminology, Chicago.

- 2003 (with Tomislav V. Kovandzic) "The effect of gun levels on violence rates depends on who has them." Presented at the Annual Meetings of the American Society of Criminology, Denver.
- 2003 (with KyuBeom Choi) "Filling in the gap in the causal link of deterrence." Presented at the Annual Meetings of the American Society of Criminology, Denver.
- 2004 (with Tomislav Kovandzic) "Do violent crime rates and police strength levels in the community influence whether individuals own guns?" Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2004 (with Jongyeon Tark) "Resisting crime: the effects of victim action on the outcomes of crime." Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2005 (with Jongyeon Tark) "The impact of self-protection on rape completion and injury." Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2004 (with Kyubeom Choi) "The perceptual gap phenomenon and deterrence as psychological coercion." Presented at the Annual Meetings of the American Society of Criminology, Nashville.
- 2005 (with Jongyeon Tark) "Who resists crime?" Presented at the Annual Meetings of the American Society of Criminology, Toronto.

- 2005 (with Jongyeon Tark and Laura Bedard) “Crime and marriage.” Presented at the Annual Meetings of the American Society of Criminology, Toronto.
- 2006 (with Shun-Yang Kevin Wang) “Organized gun trafficking, ‘crime guns,’ and crime rates.” Presented at the Annual Meetings of the American Society of Criminology, Los Angeles.
- 2006 “Are police officers more likely to kill black suspects?” Presented at the Annual Meetings of the American Society of Criminology, Los Angeles.
- 2007 (with Shun-Yang Kevin Wang) “The myth of big-time gun trafficking.” Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2007 (with Marc Gertz and Jason Bratton) “Why do people support gun control?” Presented at the Annual Meetings of the American Society of Criminology, Atlanta.
- 2008 (with J.C. Barnes) “Deterrence and macro-level perceptions of punishment risks: Is there a “collective wisdom?” Presented at the Annual Meetings of the American Society of Criminology, St. Louis.
- 2009 “The myth of big-time gun trafficking.” Presented at UCLA Law Review Symposium, “The Second Amendment and the Right to Bear Arms After DC v. Heller.” January 23, 2009, Los Angeles.

- 2009 (with Shun-Yung Wang) “Employment and crime and delinquency of working youth: A longitudinal study of youth employment.” Presented at the Annual Meetings of the American Society of Criminology, November 6, 2009, Philadelphia, PA.
- 2009 (with J. C. Barnes) “Do more police generate more deterrence?” Presented at the Annual Meetings of the American Society of Criminology, November 4, 2009, Philadelphia, PA.
- 2010 (with J. C. Barnes) “Article productivity among the faculty of criminology and criminal justice doctoral programs, 2005-2009.” Presented at the annual Meetings of the American Society of Criminology, November 18, 2010, San Francisco, CA.
- 2010 (with Will Hauser) “Fear of crime and gun ownership.” Presented at the annual Meetings of the American Society of Criminology, November 18, 2010, San Francisco, CA.
- 2010 “Errors in survey estimates of defensive gun use frequency: results from national Internet survey experiments.” Presented at the annual Meetings of the American Society of Criminology, November 19, 2010, San Francisco, CA.

- 2010 (with Mark Faber and Tomislav Kovandzic) “Perceived risk, criminal victimization, and prospective gun ownership.” Presented at the annual Meetings of the American Society of Criminology, November 19, 2010, San Francisco, CA.
- 2011 (with Shun-young Wang) “The impact of job quality and career commitment on delinquency: conditional or universal?” Presented at the annual Meetings of the American Society of Criminology, November 17, 2011.
- 2011 (with Moonki Hong) “The short-term deterrent effect of executions on homicides in the United States, 1984-1998.” Presented at the annual Meetings of the American Society of Criminology, November 16, 2011.
- 2011 (with Kelly Roberts) “Which survey modes are most effective in getting people to admit illegal behaviors?” Presented at the annual Meetings of the American Society of Criminology, November 17, 2011.
- 2011 (with Will Hauser) “Pick on someone your own size: do health, fitness, and size influence victim selection?” Presented at the annual Meetings of the American Society of Criminology, November 18, 2011.

- 2011 (with Tomislav Kovandzic) “Is the macro-level crime/punishment association spurious?” Presented at the annual Meetings of the American Society of Criminology, November 18, 2011.
- 2012 (with Dylan Jackson) “Adult unemployment and serious property crime: a national case-control study.” Presented at the annual Meetings of the American Society of Criminology, November 15, 2012.
- 2013 (with Will Hauser) “Confidence in the Police and Fear of Crime: Do Police Force Size and Productivity Matter?” Presented at the annual Meetings of the American Society of Criminology, November 22, 2013.
2013. (with Dylan Jackson) “Adult unemployment and serious property crime: a national case-control study.” Presented at the annual Meetings of the American Society of Criminology, November 22, 2013.
- 2014 (with Dylan Jackson) "Does Crime Cause Punitiveness?" Presented at the annual Meetings of the American Society of Criminology, November 20, 2014.
- 2015 “The effect of large capacity magazines on the casualty counts in mass

shootings.” Presented at the annual Meetings of the American Society of Criminology, November 18, 2015.

2015 (with Bethany Mims) “Article productivity among the faculty of criminology and

criminal justice doctoral programs, 2010-2014.” Presented at the annual Meetings of the American Society of Criminology, November 20, 2015.

## CHAIR

1983 Chair, session on Race and Crime. Annual meetings of the American Society of Criminology, Denver.

1989 Co-chair (with Merry Morash), roundtable session on problems in analyzing the National Crime Surveys. Annual meetings of the American Society of Criminology, Reno.

1994 Chair, session on Interrupted Time Series Designs. Annual meetings of the American Society of Criminology, New Orleans.

1993 Chair, session on Guns, Gun Control, and Violence. Annual meetings of the American Society of Criminology, Phoenix.

1995 Chair, session on International Drug Enforcement. Annual meetings of the American Society of Criminology, Boston.

1999 Chair, Author-Meets-Critics session, More Guns, Less Crime. Annual meetings of the American Society of Criminology, Toronto.

2000 Chair, session on Defensive Weapon and Gun Use. Annual Meetings of the

American Society of Criminology, San Francisco.

2002 Chair, session on the Causes of Gun Crime. Annual meetings of the American Society of Criminology, Chicago.

2004 Chair, session on Protecting the Victim. Annual meetings of the American Society of Criminology, Nashville.

#### DISCUSSANT

1981 Session on Gun Control Legislation, Annual Meetings of the American Society of Criminology, Washington, D.C.

1984 Session on Criminal Sentencing, Annual Meetings of the American Society of Criminology, Cincinnati.

1986 Session on Sentencing, Annual Meetings of the American Society of Criminology, Atlanta.

1988 Session on Gun Ownership and Self-protection, Annual Meetings of the Popular Culture Association, Montreal.

1991 Session on Gun Control, Annual Meetings of the American Statistical Association, Atlanta, Ga.

1995 Session on International Drug Enforcement, Annual Meetings of the American Society of Criminology, Boston.

2000 Session on Defensive Weapon and Gun Use, Annual Meetings of the American Society of Criminology, San Francisco.

- 2004 Author-Meets-Critic session on Guns, Violence, and Identity Among African-American and Latino Youth, by Deanna Wilkinson. Annual meetings of the American Society of Criminology, Nashville.
- 2007 Session on Deterrence and Perceptions, University of Maryland 2007 Crime & Population Dynamics Summer Workshop, Aspen Wye River Center, Queenstown MD, June 4, 2007.
- 2009 Session on Guns and Crime, at the DeVoe Moore Center Symposium On The Economics of Crime, March 26-28, 2009.
- 2012 Panel discussion of news media coverage of high profile crimes  
Held at the Florida Supreme Court On September 24-25, 2012, sponsored by the Florida Bar Association as part of their 2012 Reporters' Workshop.

## PROFESSIONAL SERVICE

Editorial consultant -

American Sociological Review

American Journal of Sociology

Social Forces

Social Problems

Law and Society Review

Journal of Research in Crime and Delinquency

Social Science Research

Criminology

Journal of Quantitative Criminology

Justice Quarterly

Journal of Criminal Justice

Violence and Victims

Violence Against Women

Journal of the American Medical Association

New England Journal of Medicine

American Journal of Public Health

Journal of Homicide Studies

Grants consultant, National Science Foundation, Sociology Program.

Member, Gene LeCarte Student Paper Committee, American Society of Criminology, 1990.

Area Chair, Methods Area, American Society of Criminology, annual meetings in Miami,

November, 1994.

Division Chair, Guns Division, American Society of Criminology, annual meetings

in

Washington, D.C., November, 1998.

Dissertation evaluator, University of Capetown, Union of South Africa, 1998.

Division Chair, Guns Division, American Society of Criminology, annual meetings

in

Washington, D.C., November, 1999.

Member of Academy of Criminal Justice Sciences selection committee for Editor of Justice

Quarterly, 2007.

Outside reviewer of Dr. J. Pete Blair for promotion to Full Professor in the School of Criminal Justice at Texas State University, San Marcos, 2014.

#### UNIVERSITY SERVICE

Member, Master's Comprehensive Examination Committee, School of Criminology, 1979-

1982.

Faculty Advisor, Lambda Alpha Epsilon (FSU chapter of American Criminal Justice Association), 1980-1988.

Faculty Senate Member, 1984-1992.

Carried out campus crime survey for President's Committee on Student Safety and Welfare,

1986.

Member, Strategic Planning and Budgeting Review Committee for Institute for Science and

Public Affairs, and Departments of Physics and Economics, 1986.

Chair, Committee on Ph.D. Comprehensive Examination in Research Methods,  
School of

Criminology, Summer, 1986.

Member, Committee on Ph.D. Comprehensive Examination in Research Methods,  
School of

Criminology, Summer, 1986 to present.

Chair, Committee on Graduate Assistantships, School of Criminology, Spring, 1987.

Chair, Ad Hoc Committee on Computers, School of Criminology, Fall, 1987.

Member, Recruitment Committee, School of Criminology, Spring, 1988; Spring,  
1989; and

1989-90 academic year.

Member, Faculty Senate Committee on Computer-Related Curriculum, Spring, 1988  
to Fall,

1989.

Chair, Ad Hoc Committee on Merit Salary Distribution, School of Criminology,  
Spring,

1988.

Chair, Ad Hoc Committee on Enrollment Strains, Spring, 1989.

Member, Graduate Handbook Committee, School of Criminology, Spring, 1990.

Member, Internal Advisement Committee, School of Criminology Spring, 1990.

University Commencement Marshall, 1990 to 1993.

Member, School of Criminology and Criminal Justice Teaching Incentive Program  
award

committee.

Chair, Faculty Recruitment Committee, School of Criminology and Criminal Justice,  
1994-

1995.

Chair, Committee on Ph.D. Comprehensive Examination in Research Methods,  
School of

Criminology and Criminal Justice, 1994-1995.

Member, University Computer and Information Resources Committee, 1995-1998.

Member, University Fellowship Committee, 1995 to present.

Member, University Library Committee, 1996 to 1999.

Chair, Electronic Access Subcommittee, University Library Committee, 1998 to  
1999.

Member, Ad Hoc Committee on Merit Salary Increase Allocation, School of  
Criminology

and Criminal Justice, 1998-1999.

Member, Academic Committee, School of Criminology and Criminal Justice, 2000- .

Member, Recruiting Committee, School of Criminology and Criminal Justice, 2000-  
2001.

Member, Promotion and Tenure Committee, School of Criminology and Criminal

Justice,

2000-.

Chair, Committee on Ph.D. Comprehensive Examination in Research Methods,

School of

Criminology and Criminal Justice, 2000-2002.

Chair, Promotion and Tenure Committee, School of Criminology and Criminal

Justice,

2001-2002.

Faculty Adviser, School of Criminology and Criminal Justice Graduate Student

Association, 2001-present.

Member, ad hoc committee on survey research, School of Criminology and Criminal

Justice, 2002.

Coordinator of Parts 2 and 4 of the School of Criminology and Criminal Justice Unit

Review, 2002.

Chair, Academic Committee, School of Criminology and Criminal Justice, 2002-

2003.

Director, Honors Programs, School of Criminology and Criminal Justice, 2002-

present.

Member, University Promotion and Tenure Committee, Fall, 2003 to present.

Member of University Graduate Policy Committee, Fall 2003 to .

Director of Graduate Studies, School (later College) of Criminology and Criminal

Justice,

April 2004 to May 2011.

Chair, Promotion and Tenure Committee, College of Criminology and Criminal

Justice,

2005-2006

Served as major professor on Area Paper by Christopher Rosbough, completed in 2012.

Served as member of dissertation committee of Kristen Lavin, dissertation completed in

2012.

Served as member of dissertation committee of Elizabeth Stupi, dissertation completed in

2013.

Served as outside member on two dissertation committees in 2014-2015: Brian

Meehan

in the Department of Economics and Adam Weinstein in the English

Department.

Both dissertations were completed.

Served as major professor on Area Paper on legalization of marijuana for Pedro Juan Matos Silva, Spring 2015. Paper completed.

Served as major professor for doctoral student Moonki Hong, who finished his

dissertation. .

## PUBLIC SERVICE

Television, radio, newspaper, magazine, and Internet interviews concerning gun control, racial bias in sentencing, crime statistics, and the death penalty. Interviews and other kinds of news media contacts include Newsweek, Time, U.S. News and World Report, New York Times, Washington Post, Chicago Tribune, Los Angeles Times, USA Today, Boston Globe, Wall Street Journal, Kansas City Star, Philadelphia Inquirer, Philadelphia News, Atlanta Constitution, Atlanta Journal, Arizona Republican, San Antonio Express-News, Dallas Morning News, Miami Herald, Tampa Tribune, Jacksonville Times-Union, Womens' Day, Harper's Bazaar, Playboy, CBS-TV (60 Minutes; Street Stories) ABC-TV (World News Tonight; Nightline), NBC-TV (Nightly News), Cable News Network, Canadian Broadcasting Company, National Public Radio, Huffington Post, PolitiFact.com, and many others.

Resource person, Subcommittee on Crime and Justice, (Florida House) Speaker's

Advisory

Committee on the Future, February 6-7, 1986, Florida State Capitol.

Testimony before the U.S. Congress, House Select Committee on Children, Youth  
and

Families, June 15, 1989.

Discussant, National Research Council/National Academy of Sciences Symposium  
on the

Understanding and Control of Violent Behavior, April 1-4, 1990, Destin,  
Florida.

Colloquium on manipulation of statistics relevant to public policy, Statistics  
Department,

Florida State University, October, 1992.

Speech to faculty, students, and alumni at Silver Anniversary of Northeastern  
University

College of Criminal Justice, May 15, 1993.

Speech to faculty and students at Department of Sociology, University of New  
Mexico,

October, 1993.

Speech on the impact of gun control laws, annual meetings of the Justice Research  
and

Statistics Association, October, 1993, Albuquerque, New Mexico.

Testimony before the Hawaii House Judiciary Committee, Honolulu, Hawaii, March 12,

1994.

Briefing of the National Executive Institute, FBI Academy, Quantico, Virginia, March 18,

1994.

Delivered the annual Nettler Lecture at the University of Alberta, Edmonton, Canada, March 21, 1994.

Member, Drugs-Violence Task Force, U.S. Sentencing Commission, 1994-1996.

Testimony before the Pennsylvania Senate Select Committee to Investigate the Use of

Automatic and Semiautomatic Firearms, Pittsburgh, Pennsylvania, August 16, 1994.

Delivered lectures in the annual Provost's Lecture Series, Bloomsburg University, Bloomsburg, Pa., September 19, 1994.

Briefing of the National Executive Institute, FBI Academy, Quantico, Virginia, June 29,

1995.

Speech to personnel in research branches of crime-related State of Florida agencies, Research and Statistics Conference, sponsored by the Office of the State Courts Administrator, October 19, 1995.

Speech to the Third Annual Legislative Workshop, sponsored by the James Madison Institute and the Foundation for Florida's Future, February 5, 1998.

Speech at the Florida Department of Law Enforcement on the state's criminal justice research agenda, December, 1998.

Briefing on news media coverage of guns and violence issues, to the Criminal Justice Journalists organization, at the American Society of Criminology annual meetings in Washington, D.C., November 12, 1998.

Briefing on gun control strategies to the Rand Corporation conference on "Effective Strategies for Reducing Gun Violence," Santa Monica, Calif., January 21, 2000.

Speech on deterrence to the faculty of the Florida State University School of Law, February 10, 2000.

Invited address on links between guns and violence to the National Research Council Committee on Improving Research Information and Data on Firearms, November 15-16, 2001, Irvine, California.

Invited address on research on guns and self-defense to the National Research Council Committee on Improving Research Information and Data on Firearms, January 16-

17, 2002, Washington, D.C.

Invited address on gun control, Northern Illinois University, April 19, 2002.

Invited address to the faculty of the School of Public Health, University of Alabama,  
Birmingham, 2004.

Invited address to the faculty of the School of Public Health, University of  
Pennsylvania,

March 5, 2004.

Member of Justice Quarterly Editor Selection Committee, Academy of Criminal  
Justice

Sciences, Spring 2007

Testified before the Gubernatorial Task Force for University Campus Safety,  
Tallahassee,

Florida, May 3, 2007.

Gave public address, "Guns & Violence: Good Guys vs. Bad Guys," Western  
Carolina

University, Cullowhee, North Carolina, March 5, 2012.

Invited panelist, Fordham Law School Symposium, "Gun Control and the Second  
Amendment," New York City, March 9, 2012.

Invited panelist, community forum on "Students, Safety & the Second Amendment,"  
sponsored by the Tallahassee Democrat.

Invited address at University of West Florida, Department of Justice Studies, titled

“Guns,

Self-Defense, and the Public Interest,” April 12, 2013.

Member, National Research Council Committee on Priorities for a Public Health

Research Agenda to Reduce the Threat of Firearm-related Violence, May 2013.

Invited address at Davidson College, Davidson, NC, April 18, 2014. Invited by the

Department of Philosophy.

## OTHER ITEMS

Listed in:

Marquis Who's Who

Marquis Who's Who in the South and Southwest

Who's Who of Emerging Leaders in America

Contemporary Authors

Directory of American Scholars

Writer's Directory

Participant in First National Workshop on the National Crime Survey, College Park, Maryland, July, 1987, co-sponsored by the Bureau of Justice Statistics and the American Statistical Association.

Participant in Second National Workshop on the National Crime Survey, Washington, D.C., July, 1988.

Participant, Seton Hall Law School Conference on Gun Control, March 3, 1989.

Debater in Intelligence Squared program, on the proposition “Guns Reduce Crime.” Rockefeller University, New York City, October 28, 2008. Podcast

distributed

through National Public Radio. Further details are available at

<http://www.intelligencesquaredus.org/Event.aspx?Event=36>.

Subject of cover story, “America Armed,” in Florida State University Research in Review, Winter/Spring 2009.

Grants reviewer, Social Sciences and Humanities Research Council of Canada, 2010.

Named one of “25 Top Criminal Justice Professors” in the U.S. by Forensics

Colleges

website (<http://www.forensicscolleges.com/>), 2014.

## Expert Testimony in Past Five Years

Maryland Shall Issue v. Hagan. Maryland. Deposition 5-18-18.

Association of New Jersey Rifle and Pistol Clubs v. Grewel. New Jersey. Deposition 8-2-18.

Rupp v. Becerra, California. Deposition 12-12-18.

NRA v. Swearingen, Florida. Deposition via Zoom 8-13-20.

Maryland Shall Issue v. Anne Arundel County, Maryland. Deposition via Zoom 9-29-22.

OFF v. Brown, Oregon. Deposition via Zoom 1-25-23.

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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 GARY KLECK**

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